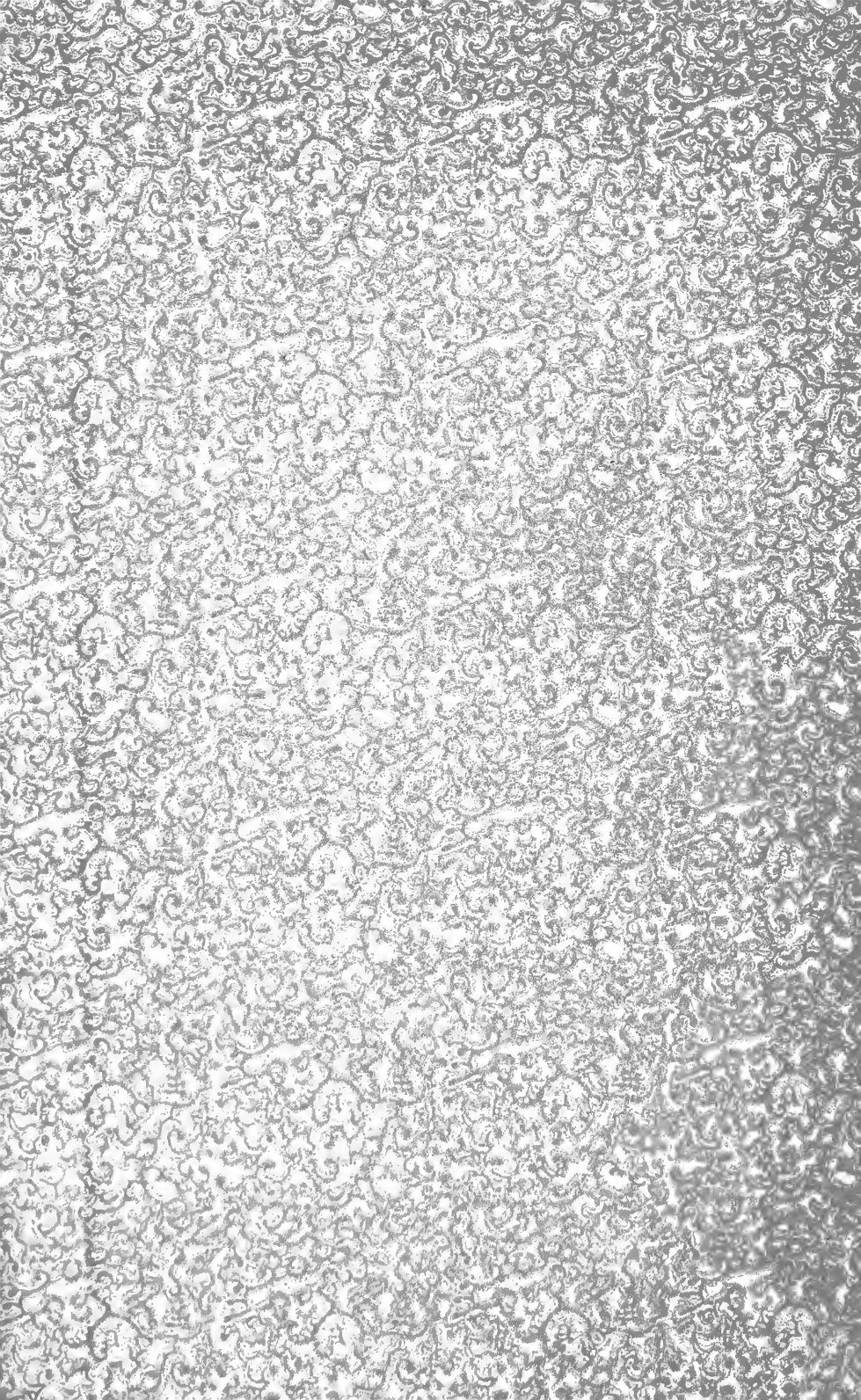
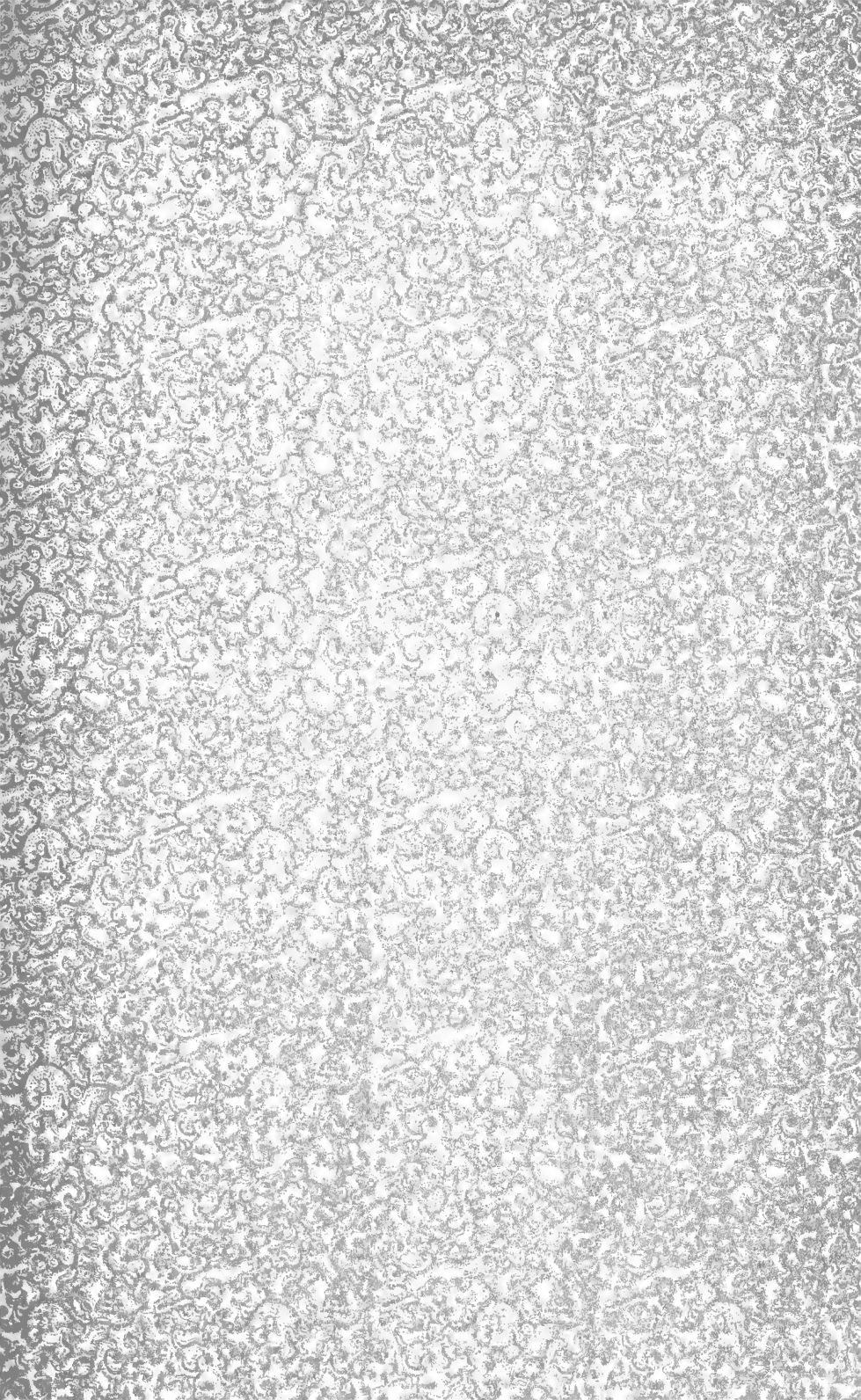


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VOLUME III

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SURVEY OF THE ADMINISTRATION OF INCOME  
AND EXCESS-PROFITS TAXES

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PREPARED AND SUBMITTED BY THE TREASURY DEPARTMENT

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## LETTER OF TRANSMITTAL

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HON. WILLIAM R. GREEN,

*Chairman Joint Committee on Internal Revenue Taxation,  
Washington, D. C.*

MY DEAR MR. CHAIRMAN: A realization of the fact that your committee is charged with the duty of simplifying the internal revenue laws, particularly the income tax, and their administration, prompted the Treasury to enter upon a survey showing the situation as it exists to-day in the administration of the income and excess-profits taxes. It is my opinion that a great opportunity is presented for the simplification of the administration.

The survey is the result of the work of a committee consisting of Alexander W. Gregg, Charles R. Nash, and Ellsworth C. Alvord. Although the members of this committee are well known to your committee, it may be well to explain, for the benefit of others who may examine the survey, that Mr. Gregg has served for seven years with the Treasury Department. For two years he was special assistant to the Secretary of the Treasury and represented the Treasury before the committees of Congress during the enactment of the Revenue Acts of 1921, 1924, and 1926. During the last two years he has been general counsel of the Bureau of Internal Revenue. His resignation from the latter office took effect on October 10 of this year. Mr. Charles R. Nash has been in the service of the Bureau of Internal Revenue for 17 years, working up from a clerk to his present position as assistant to the commissioner. He has represented the Bureau of Internal Revenue before the Appropriation Committees of the House and Senate during the last five years. He has held his present position for a period of four years. Mr. Alvord has held his present position, special assistant to the Secretary of the Treasury, for slightly more than a year, and is in charge of legislation for the department. For six years he was employed by the Congress, three as assistant legislative counsel of the Senate and three as the assistant legislative counsel of the House of Representatives. The Treasury is indebted to the committee and to the other officials of the department who have made the survey possible, particularly Mr. Mires, Deputy Commissioner of Internal Revenue; Mr. Sherwood, Assistant Deputy Commissioner of Internal Revenue; and Mr. Leming, of the office of the general counsel.

Although an insufficient period of time was available, the survey has been carefully prepared. There has been no attempt to present the picture solely from the Treasury point of view. The facts speak for themselves. I agree unqualifiedly with the conclusions stated.

A. W. MELLON,

*Secretary of the Treasury.*

TO THE UNDERSECRETARY OF THE TREASURY:

We are transmitting herewith a survey of the administration of the income and excess profits tax acts. The survey was undertaken primarily for the purpose of assisting the Joint Committee on Internal Revenue Taxation in its study of the administration of the internal revenue laws.

It is recommended that, if the survey meets with your approval, it be submitted to the Commissioner of Internal Revenue and to the Secretary of the Treasury and that, if it meets with their approval, it be submitted to the Joint Committee on Internal Revenue Taxation.

A. W. GREGG.

C. R. NASH.

E. C. ALVORD.

Approved:

OGDEN L. MILLS,

*Undersecretary of the Treasury.*

DAVID H. BLAIR,

*Commissioner of Internal Revenue.*

A. W. MELLON,

*Secretary of the Treasury.*



# **SURVEY OF THE ADMINISTRATION OF INCOME AND EXCESS-PROFITS TAXES**

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## **CHAPTER I. INTRODUCTION**

The accompanying survey of the administration of the income and excess profits tax acts has been undertaken by the Treasury Department in order that an accurate and complete analysis of the conditions existing on June 30, 1927, will be available. It is the first comprehensive inventory of the work confronting the Bureau of Internal Revenue undertaken since 1923. It was the opinion of the Treasury that the completion of a thorough and detailed study would be a substantial contribution toward the ultimate simplification of the income tax laws and their administration. It is hoped that this survey will assist the Joint Committee on Internal Revenue Taxation, the Committee on Ways and Means, the Committee on Finance, the Members of Congress, and the public in an appreciation of the task imposed upon the Treasury in the administration of eight recent and separate acts imposing internal-revenue taxes, of the manner in which that responsibility has been borne, of the unprecedented administrative problems imposed, of the situation as it exists to-day, of the problems confronting the Treasury and awaiting solution, and of the soundness of the solutions suggested.

To many of the public the Government is personified. There are criticisms of delays, of decisions in particular cases, and of conflicting rulings. But there were on July 1, 1927, approximately 13,000 officers and employees in the Bureau of Internal Revenue and its field service. The persons who made decisions yesterday are not with the bureau to-day. And they have taken with them their experience, their insight into the problems, and the results of their studies. The administration of any law is effectively limited by the experience, ability, and judgment of the personnel. The personnel problem is the most difficult. A satisfactory solution has heretofore been denied.

An effort has been made to so arrange the survey that the important facts revealed and the important conclusions drawn therefrom will be readily available to all readers of the report, and that all the facts will be available to those who may desire to devote the time necessary to an exhaustive study of the report and appendices.

The survey does not include the administration of the miscellaneous taxes. The work of the bureau in connection with the administration of miscellaneous taxes has always been reasonably current.

## CHAPTER II. CONCLUSIONS AND RECOMMENDATIONS

### PART 1. SUMMARY OF OUTSTANDING FACTS

(1) For the first time since the war it can now be said that the auditing work of the Bureau of Internal Revenue is *practically current*.

(2) Of the number of old cases still pending in the bureau, an almost negligible number are awaiting original audit. To a very large extent they are cases that have been reopened by taxpayers through the filing of claims for refund.

(3) More than 19,000 *undecided* cases are *pending* before the Board of Tax Appeals, involving aggregate deficiencies of approximately \$550,000,000. The petitions being filed with the Board of Tax Appeals *exceed* the number disposed of by more than 200 per month.

(4) The office of the general counsel is literally swamped with work.

(5) Although the nature of the problems remains substantially the same, the burden has been transferred from the Bureau of Internal Revenue to the general counsel's office and the Board of Tax Appeals.

(6) In cases before the Board of Tax Appeals involving amounts of \$10,000 or more, the Government has succeeded in sustaining only about 50 per cent of the deficiencies asserted.

(7) The period of delay between the date of the bureau's action and the final decision of the Board of Tax Appeals prevents the decision from becoming a precedent for the action of the bureau upon similar points. Taxpayers not involved in the proceedings before the board can protect their interests. The bureau can protect the Government's interests in doubtful cases *only* by deciding against the taxpayer or, after obtaining waivers, by failing to decide.

(8) There are only *eleven* attorneys in the office of the general counsel who have served in the office *more than six years*. Since July, 1924, 52 attorneys have resigned from the general counsel's office. There have been in the Income Tax Unit alone 4,727 resignations of professional and technical officials during the last seven years.

### PART 2. SUMMARY OF OUTSTANDING CONCLUSIONS

(1) An opportunity *to retain* trained, experienced, and competent personnel is essential.

(2) The burden has been transferred to the Board of Tax Appeals and the general counsel's office, and this burden must be relieved *if their true functions are to be performed properly*.

(3) The Government is handicapped in litigation. It can well afford to settle many more cases without resort to litigation.

(4) Cases must be closed *fairly and finally* by the bureau. The shifting of responsibility to the general counsel's office and to the board and the constant reopening of cases, as a result of decisions of the courts or the Board of Tax Appeals or a change in regulations, should be brought to an end.

- (5) The Treasury is cognizant of its fair share of responsibility.
- (6) Taxpayers should cooperate. They are by no means blameless for existing difficulties.

In order to present the situation in broad outline, the above conclusions must be supplemented by three truisms—

- (1) At root, the major problem is one of personnel.
- (2) All tax cases can not be closed upon a basis of absolute accuracy. To attempt to do so is to sacrifice accomplishment to unattainable ideal. Prompt and final settlement is often more important than meticulous accuracy.
- (3) The collection of revenues is primarily an administrative and not a judicial problem. As far as the Federal income tax is concerned, a field of administration has been turned into a legal battle field.

### PART 3. SUMMARY OF CAUSES CONTRIBUTING TO CONGESTION

#### (1) The size of the job.

Over \$35,000,000,000 were collected and more than 62,000,000 returns were filed for the years 1917 to 1926, inclusive. Little real progress toward administrative organization could be made during the war years. Government officials, as well as taxpayers, were confronted with problems never before presented. The intricate facts surrounding practically every transaction of importance occurring during this period required ascertainment and analysis and their legal consequences determined. Principles for the valuation of most of the assets of the country had to be evolved and the valuation made. The books of the largest corporations in the world had to be audited. Methods of accounting adaptable to the determination of tax liability had to be installed. The Government had to develop a system in the offices of collectors competent to handle a business in tax collections ten times as large as during any previous period of its existence. The amounts contingent upon intangible theories are staggering. It is not surprising that attempted solutions have provoked delays and litigation.

#### (2) Personnel.

It has been impossible to build up *and retain* an adequate personnel. The Government and the public have a right to demand that the personnel charged with the administration of the internal revenue laws possess extensive experience, ability, unquestionable integrity, and sound judgment. Persons capable of holding important positions have been developed by the Treasury, but in many cases it has been impossible to retain them. The turnover has been and is devitalizing. Each resignation imposes delay and immediate real loss to the taxpayer and the Government, for a knowledge of the cases must be acquired by the successor. But the resulting delay to individual cases is relatively of minor consequence. The individual who resigns can not leave with his successor his experience, background, ability, and judgment.

Ability alone is insufficient. An individual must have had the necessary experience, that only time can give, to have an adequate insight into the effect of the decisions he is called upon to make. New men can not be trained rapidly enough to assume the positions of

those who resign. The field from which persons competent to carry on the work can be selected has been and probably always will be decidedly limited. It is only by the retention of persons capable of holding positions of importance that an adequate personnel will be obtained.

The bureau loses regularly a large proportion of its ablest employees because it can not meet the terms offered by others. A certain amount of this leakage is inevitable. But the present turnover is excessive. Surely the bureau should be able to compete for the services of efficient employees whom it desires to retain with State tax commissions and business concerns of moderate size. The bureau should not remain indefinitely a training school in which young men and women of talent educate themselves and then resign to find a permanent career outside. The Government should find means in higher salaries and more attractive tenure to induce a larger porportion of its ablest employees to stay and find dignified careers in the public service. If this can not be done, it will be the body of taxpayers and the Treasury—not the employees of the bureau—who will suffer most.

The Government can well afford to retain a substantial portion of the personnel it has developed.

**(3) The policy to decide upon a basis of absolute accuracy.**

*The difficulty in the past in closing big cases and in settling cases without litigation has arisen largely as a result of the attempt of the bureau to settle with mathematical accuracy and with pure logic questions which by their nature are not susceptible of mathematical or logical determination.* The bureau in the past has attempted to determine such questions as the valuation of natural resources, the valuation of intangibles such as patents, the determination of the amortization of war facilities, and the computation of depreciation by the use of formulae and with mathematical accuracy. By far the majority of the questions arising in disputed cases can not be solved with exact precision, but should be settled by administrative action within the bureau on the basis of the best judgment of competent officials.

Important questions of law must, of course, be decided finally by judicial tribunals. But the best interests of the Government and of the taxpayer will be promoted if the great majority of the disputed questions involving no important principle are settled by administrative action within the bureau. Even a casual analysis of the history within the bureau and through the courts of various cases set out in this report will demonstrate that both the Government and the taxpayer will benefit by such action.

The nature of the problems involved in many classes of cases makes their solution adaptable to *administrative* and *not judicial* action. It is impossible to predict the decision of a judicial body upon such questions of fact as valuations of natural resources, patents, or good will; upon questions presented in an amortization determination; upon a case involving contemplation of death; upon the propriety of depreciation allowances; or upon similar questions.

Furthermore, the bureau is not as well prepared as the taxpayer to litigate with any success these questions of fact and of opinion. It does not have, and so far has not been able to secure, sufficient

attorneys to present properly to the Board of Tax Appeals and the courts the Government's position in these cases. The statistics show that the bureau has collected through the Board of Tax Appeals only about one-half of the tax claimed by it. It is apparent from a study of the board's decisions that the great majority of the reversals of the bureau have been in cases involving questions of fact, judgment, and opinion. It is believed confidently that as much or more tax can be secured by settling these cases by administrative action within the bureau than by litigation. But even more important than the tax collected will be the benefit both to the Government and the taxpayer of disposing of these old matters without protracted controversy.

#### (4) The attitude of the taxpayer.

The taxpayer and his attorney must assume their fair share of the responsibility for the present situation. If the attitude of the Government is to change, the attitude of the taxpayer and his attorney must change. The taxpayer must be willing to review his entire case and to settle upon a basis fair both to the Government and himself. He must abandon his desire to litigate every doubtful point decided *against him* and to accept without question doubtful points decided *in his favor*. It is believed that a substantial majority of taxpayers will alter their attitude to conform to that of the Government.

It happens not infrequently that the presentation of the taxpayer's case to the bureau is insufficient. This fact is attributable to many causes, among them being the employment of incompetent representatives and the desire to avoid expense necessary to a complete and proper presentation. Many of the cases in which the bureau is reversed by the board would have been decided by the bureau in conformity with the board's decision had the taxpayer presented his case to the bureau in the manner in which it was presented to the Board of Tax Appeals.

Much of the criticism urged by taxpayers that they are unable to obtain a decision from the bureau is misleading. What is really meant is that the taxpayer *can not obtain a favorable decision*. The taxpayer's realization that an unfavorable decision will be forthcoming prompts him to seek delay.

#### (5) Reopening cases.

Of cases for the years 1917 to 1921, inclusive, 1,109,939 once closed by the bureau have been reopened. An analysis of the causes occasioning the reopening of cases is given hereinafter. The opportunities to reopen must be brought to an end if an intolerable situation is not to continue.

#### (6) Shifting responsibility.

It is admitted that there has been a failure on the part of the personnel of the bureau to assume responsibility in the disposition of cases. Final decisions have been shifted from place to place in the bureau and from the bureau to the Board of Tax Appeals. "Passing the buck" undoubtedly exists. This is, in most instances, merely a consequence of the Treasury's inability to retain individuals competent and willing to assume responsibility and to make final decisions. A changing personnel can not grasp adequately vital and far-reaching

problems of policy and law involved in final decisions of tax cases. An individual who does not possess an adequate appreciation of the decision he is asked to make can not be criticised for refusing to assume responsibility.

**(7) Determinations made because of the running of the statute of limitations.**

It is admitted that in the past many deficiency letters have been mailed in order to protect the interests of the Government from the bar of the statute of limitations. The chart showing the status of the work of the Board of Tax Appeals reveals an extraordinary increase in the number of petitions docketed immediately following the expiration of the statutory period upon assessments for any particular year. The necessity for this practice in the past is apparent. There must be a considerable and immediate reduction in the number of deficiency determinations made in order to prevent the running of the statute of limitations.

**PART 4. ANALYSIS OF THE PROBLEMS**

**(1) Relieving the present congestion before the Board of Tax Appeals.**

It is essential that effective measures be applied in order to relieve the congestion before the Board of Tax Appeals. There should be an opportunity to withdraw from the board cases which may be settled properly by administrative action within the Treasury and without the necessity of a decision by the board.

The Board of Tax Appeals is functioning at present at as great a speed as is consistent with sound decision. A material increase in its production should not be sought or expected. There are, however, some requirements occasioning unnecessary delays in its proceedings, and these should be removed.

**(2) Preventing future congestion.**

Unless methods are found for more effective and final closing by administrative action within the Treasury, the accumulation of cases before the board will increase. Notwithstanding the fact that the percentage of cases going to the Board of Tax Appeals is extraordinarily small (0.6 per cent of the total cases disposed of by the bureau), the *actual number* of petitions docketed by the board establishes conclusively that administrative settlement is essential in every case susceptible of administrative settlement.

**(3) Eliminating delay in decisions by the Board of Tax Appeals.**

At the present time the decisions of the Board of Tax Appeals are frequently handed down so long after the action of the bureau that the decision does not serve as a precedent for the bureau in its action in similar cases. The bureau can not tie up its cases, postpone its action, and await final decisions of the board. In the opinion of the Treasury, one of the most important functions of the Board of Tax Appeals is to render decisions upon important questions of law expeditiously, so that the decisions will serve as guides for the future action of both the Government and the taxpayers.

Failure to settle cases within the bureau creates a major problem which deserves the most careful attention. The problem can best be stated by an illustration. Take a disputed question such as the taxation of gain or loss resulting from the sale by a parent corporation of the stock of an affiliated subsidiary. The bureau holds that



such gain or loss must be recognized. Many corporations take such losses to their advantage, while the companies with corresponding gains promptly appeal their cases to the Board of Tax Appeals. In any important question of this kind, two or three years are likely to elapse before the bureau makes a final ruling. After the bureau rules, two or three years additional are likely to elapse before the board renders its decision—and the more congested the board's docket, the longer the delay. After the board decides, two or three years may be required before the Supreme Court speaks. The interval elapsing before a point of this importance is finally decided can hardly be less than six years and may be eight or nine years.

*This means that the period of limitations will have expired in many cases in which the disputed point was decided in the taxpayer's favor.*—The bureau—if the Supreme Court reverses its ruling—can not go back and disallow the losses already allowed in cases barred by the period of limitation; and the taxpayers who paid taxes on the gains will have protected themselves by the filing of claims for refund, while others will have appealed to the board. *The period consumed in appeal exceeds the statute of limitations, and this means for the Treasury—"heads we lose, tails you win."*

Whatever the ultimate remedy for this evil may be, the evil is aggravated by congestion and delay, and may be mitigated by a wider settlement of cases through administrative action.

The above illustration is typical of a large number of cases, affecting many millions in tax liability, in which the bureau's decision however made affects adversely one group of taxpayers and is favorable to another group.

#### (4) Relieving the general counsel's office.

The primary functions of the general counsel's office are to advise the bureau upon questions of law (with the facts necessary for the determination of tax liabilities ascertained by the bureau) and to protect the best interests of the Government in litigation. It is a physical impossibility for an attorney responsible for the handling of from 200 to 500 active cases to represent the Government properly in each case. He is forced to assume the defensive and to resort to every available device and technicality. A substantial step toward solution will be made if problems (1) and (2) above are solved satisfactorily.

### PART 5. DETAILED RECOMMENDATIONS

#### (1) Personnel of the office of the general counsel.

It is recommended that—

(a) The positions of the heads of the six divisions of the general counsel's office and of the two assistant general counsel should be classified in grade 7 of the professional service of the classification act, which specifies a salary of \$7,500 a year; and there should be at least 15 positions classified in professional grade 6, which specifies a minimum salary of \$6,000 a year.

(b) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, should be authorized to make original appointments in the office of the general counsel in professional grade 5, which allows an entrance salary of \$5,200.

(c) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, should be authorized to appoint in professional grade 2 (at an entrance salary of \$2,400) graduates of law schools, without the professional experience now required.

**(2) Personnel of the Bureau of Internal Revenue.**

It is recommended that—

(a) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, should be authorized to classify in grade CAF 14 the positions of three technical advisors to the commissioner, at salaries of \$10,000 a year.

(b) The positions of at least 75 technical experts of the Bureau of Internal Revenue should be classified in the grade CAF 13, which specifies a minimum salary of \$6,000.

(c) The positions of 20 revenue agents in charge should be classified in grade CAF 13, which specifies a minimum salary of \$6,000, and the remaining revenue agents in charge should be classified in grade CAF 12, which specifies a minimum salary of \$5,200.

(d) The positions of the personnel in Washington and in the field should be reclassified so that their salaries will be increased to accord with the responsibilities imposed.

**(3) The special advisory committee.**

The organization and functions of the special advisory committee are discussed in detail hereinafter. It is hoped that the outline of work to be accomplished by the committee will be approved and indorsed, and the committee will be accorded fullest cooperation. Every effort should be made to instill in the committee the spirit essential to its success.

**(4) Change in attitude toward settlement of cases.**

The change in attitude necessary for the effective closing of cases by administrative action within the Treasury has been discussed. It is appreciated fully that this change can not be accomplished except gradually. It is also appreciated fully that the use of sound discretion in the settlement of tax cases can not be expected from any but the most experienced, trained, and competent men. It is necessary to begin at the top. The authority should not be granted indiscriminately. Responsibility must at all times be fixed definitely. The special advisory committee is an experiment, admittedly. If the experiment proves successful, in time it may result in a change of attitude on the part of all concerned and the collection of income taxes become, as it should, an administrative problem rather than a legal battle.

**(5) Closing agreements.**

The movement already begun to stimulate closing agreements under section 1106 (b) of the Revenue Act of 1926 should be continued. Closing agreements offer the greatest opportunity for the *final* closing of cases. Section 1106 (b) should be amended, as recommended by the Joint Committee on Internal Revenue Taxation, so as to permit closing agreements (subject to subsequent approval of the Secretary of the Treasury) whenever the taxpayer and the Government's representative agree upon the tax liability.

**(6) Deficiency determinations.**

It is believed that the bureau is capable of making better determinations of deficiencies in many cases. Soundness of the determinations is far more important than volume of production. Determination should not be postponed so that the running of the statutory period requires hasty action.

**(7) Revision of deficiency letter.**

It is believed that many petitions are filed with the Board of Tax Appeals because the taxpayer is unable to understand from the deficiency letter the exact decision of the bureau. The proposed revision of the deficiency letter, so that it will state accumulatively all prior adjustments and determinations, is indorsed.

**(8) Stipulations.**

Although the general counsel's office has disposed, by stipulations, of more cases pending before the Board of Tax Appeals than the board has disposed of by decision, it is believed that there is a substantial opportunity for increasing the number of stipulations. Stipulations of unimportant facts should be encouraged in order to facilitate proceedings before the board. Whenever the attorney in charge of the case can enter into stipulations of fact properly, he should do so. It should be borne in mind, however, that a proper personnel is essential before the practice of entering into stipulations can be increased extensively.

**(9) Regulations of prospective rather than retroactive application.**

Many of the reopenings by the Government can be prevented by giving, in every instance where sound judgment will permit, only prospective effect to changes in regulations. The authority granted in section 1108 (a) of the Revenue Act of 1926 has been exercised in several recent instances. It is recommended that this practice continue. It should be noted, however, that the power granted by this section is limited to amendments not occasioned by a court decision.

The application of decisions of courts, decisions of the Board of Tax Appeals, and decisions of the general counsel's office to cases already closed by the bureau, or to cases in which a definite decision upon some particular issue has previously been made, presents an exceptionally difficult problem. Efforts to find a sound solution should be continued. There must be some method by which the practice of constantly reworking cases, after a fair and satisfactory decision of one or more of the issues involved have been reached, may be stopped.

## **CHAPTER III. THE BUREAU OF INTERNAL REVENUE**

### **PART 1. PRESENT STATUS OF THE WORK**

**The administrative work of the bureau is current.**

The work of the Bureau of Internal Revenue is practically current to-day; 99.8 per cent of all returns filed for years prior to 1923 have been closed, and 99.5 per cent of all returns filed for years prior to 1924 have been closed. All the returns filed for 1923 will be closed by December 31, 1927. According to the present program, the returns for 1924 will be audited by June 30, 1928, and the 1925 returns by

September 30, 1928. 76 per cent of the 1926 returns already are accepted and closed, and 87 per cent of the 1926 returns will be finally closed by the end of this year. Following a practice which has recently been adopted, each taxpayer whose return has been accepted has been notified by the Commissioner of Internal Revenue. Stated in numbers of returns, the job before the bureau with respect to returns filed for years prior to 1926 was, on October 14, 1927, as follows:

*Number of returns for years 1917 to 1925, inclusive, to be audited as of October 14, 1927*

Year	Number of returns	Year	Number of returns
1917.....	512	1923.....	20,445
1918.....	736	1924.....	81,482
1919.....	1,035	1925.....	213,824
1920.....	1,615		
1921.....	1,818	Total.....	325,129
1922.....	3,662		

There appears in the appendix a tabulation showing the results of the survey, by internal revenue agents located in offices of collectors of internal revenue, of returns filed for the calendar year 1926.

#### NUMBER OF RETURNS FILED FOR THE YEARS 1917 TO 1926, INCLUSIVE

The following table gives the number of individual and corporation returns (partnership, fiduciary, and other information returns are not included) filed for the years 1917 to 1926, inclusive. It appears that the total number of returns has fallen off rapidly since 1923. These figures, however, should be examined in connection with the second following table, which shows that the number of larger returns—those entailing the greater labor of audit and interpretation—has steadily and strikingly increased.

Years	1040	1040-A	1120	Total
1917.....	432,662	3,040,228	351,426	3,824,316
1918.....	478,962	3,946,152	317,579	4,742,693
1919.....	657,659	4,675,101	320,198	5,652,958
1920.....	784,511	7,253,272	345,595	8,383,378
1921.....	695,607	6,162,818	356,397	7,214,822
1922.....	730,780	6,160,289	382,883	7,273,952
1923.....	625,897	7,327,551	398,933	8,352,381
1924.....	697,138	6,716,854	417,421	7,831,413
1925.....	830,670	3,451,391	430,072	4,712,133
1926.....	1,864,332	2,118,683	470,622	4,453,637
Total.....	7,798,218	50,852,339	3,791,126	62,441,683

All 1917 returns were forwarded to Washington. All individual returns for 1918 to 1922 filed on Form 1040 and showing net income, and all corporation returns were forwarded to Washington. All individual returns for 1923 showing gross income in excess of \$15,000, and all corporation returns were forwarded to Washington. All individual returns for 1924 and 1925 showing gross income in excess of \$25,000, and all corporation returns were forwarded to Wash-

ington. All individual returns filed on Form 1040 and all corporation returns for 1926 were surveyed by field forces of Income Tax Unit under the preliminary audit theory and forwarded to Washington.

There follows a tabulation showing the enormous increase in the number of returns filed by corporations and the larger individual taxpayers over the five-year period from 1922 to 1926. A corresponding increase for the future may be expected.

*Table showing total number of corporation returns filed in each of the calendar years 1922-1927, individual returns by size of net income for the same years, per cent of increase or decrease over the preceding year, and the per cent of increase for 1927 over 1922*

Income year	Filing year, January to December, inclusive	Corporation returns		Individual returns									
		Number filed	Per cent of increase or decrease over preceding year	Net income under \$5,000		Net income \$5,000-\$50,000		Net income \$50,000-\$100,000		Net income \$100,000-\$300,000		Net income \$300,000 and over	
				Number filed	Per cent of increase	Number filed	Per cent of increase	Number filed	Per cent of increase	Number filed	Per cent of increase	Number filed	Per cent of increase
1921-----	1922	356,397		6,136,570		514,537		8,717		2,106		246	
1922-----	1923	382,883	7.43	6,193,270	0.92	578,180	12.37	12,000	37.66	3,494	65.91	537	118.29
1923-----	1924	398,933	4.19	7,072,424	14.20	609,263	5.38	12,452	3.77	3,640	4.17	542	.93
1924-----	1925	417,421	4.63	6,672,650	-5.66	675,607	10.89	15,816	27.02	4,941	35.74	774	42.80
1925-----	1926	430,072	3.03	3,340,381	-49.94	800,152	18.43	20,958	32.51	7,982	61.54	1,578	103.87
1926-----	1927	442,251	2.83	3,227,674	-3.40	817,971	2.22	20,351	-2.90	7,904	-1.23	1,582	.25
Rate of increase in number of returns filed in 1927 <sup>1</sup> over 1922, per cent-----		24		-47		59		133		278		543	

<sup>1</sup> For 1927 the figures represent returns filed up to Aug. 31. When all returns up to Dec. 31, are filed he small decrease, as compared with the calendar year 1926, for the income classes \$50,000 to \$100,000 and \$100,000 to \$300,000 will be overcome.

The manner in which the accumulation before the bureau has been reduced is best shown by study of the following tabulation which indicates the balances on hand at the end of the several fiscal periods from that ended June 30, 1923, to that ended June 30, 1927:

*Balances of returns on hand at end of fiscal periods from 1923 to 1927*

June 30, 1923-----	3,032,544
June 30, 1924-----	2,430,044
June 30, 1925-----	2,011,084
June 30, 1926-----	742,740
June 30, 1927-----	474,535

In the space of five years the bureau had on June 30, 1927, reduced the accumulation with which it was confronted on June 30, 1923, from 3,032,544 cases to 474,535 cases, besides keeping pace with the current returns as they were filed.

#### Statistics of cases remaining open.

The following table gives complete statistics for the years 1917 to 1925, both inclusive, of the number of returns audited and the percentage remaining open:

*Percentages of returns from 1917 to 1925 remaining open on June 30, 1927*

Return years	Total closed to date	Percentage remaining open June 30, 1927	Return years	Total closed to date	Percentage remaining open June 30, 1927
1917.....	1, 312, 980	0. 05	1922.....	1, 552, 925	0. 33
1918.....	1, 274, 134	. 05	1923.....	1, 236, 945	2. 77
1919.....	1, 498, 590	. 08	1924.....	1, 024, 486	9. 51
1920.....	1, 642, 268	. 13	1925.....	573, 679	33. 52
1921.....	1, 471, 218	. 14			

**What is meant by "current."**

It might be well at this time to explain what is meant by "current." In the opinion of the Treasury, the administration of any particular year is "current" when all the returns for that year are, or will be, audited within a reasonable period prior to the expiration of the period allowed by law for the assessment of additional amounts found due or for the refund of amounts overpaid. For example, in the case of a three-year statute of limitation upon assessments the audit should be completed within two and one-half years after the returns were filed. During 1927 it will be possible to complete all the audits for 1923. This is the first time it has been possible to complete the audit of any year prior to the running of the statute of limitations for that year. There are to-day less than 22,000 returns for 1923 in process of audit, and they will be closed by December 31 of this year, while the applicable statute of limitations will not expire until March 15, 1928. The Treasury is confident that, if given the necessary cooperation, the returns for 1924 and all subsequent years will be completed a reasonable period prior to the expiration of the statute of limitations governing.

**Final closing of cases the objective.**

The responsibility of the Treasury does not end until the amount of tax properly due has been collected. This responsibility for final closing is one of the important factors prompting this survey. No case has been closed finally, from the Treasury's point of view, until the tax has been collected and there is no possible opportunity for reopening.

**The effectiveness of closing by the bureau.**

The number of cases pending before the Board of Tax Appeals, of suits pending in the courts, and of claims for refund filed might well give the impression to persons not familiar with all the facts that in a large percentage of cases taxpayers must appeal from the decision of the bureau. But the cases before the board or in the courts or the subject of refund claims now pending represent less than six-tenths of 1 per cent of the cases closed by the bureau. Closing by the bureau means a final disposition of the case in 99.4 per cent of the returns—that is, petitions in only 0.6 per cent of all the cases closed by the bureau have been filed with the Board of Tax Appeals. It is believed that this fact is frequently overlooked in the various surveys of the administration of the internal revenue laws undertaken outside of the department. During the three-year period ended June 30, 1927, 6,289,567 tax-year cases were closed by the Income Tax Unit alone; 96.5 per cent of these cases were closed prior to the issu-



ance of a deficiency letter. Deficiency letters were issued with respect to 223,659 tax years (3.5 per cent of the total tax-year cases). The taxpayers acquiesced with respect to 125,760 tax years (representing 2 per cent of the total). That is, over 50 per cent of the cases in which 60-day letters are issued are acquiesced in by the taxpayers without further action or protest on their part. Agreements in 57,650 tax-year cases were signed and filed by the taxpayers involved (0.9 per cent of the total tax years). From the standpoint of cases handled by the Income Tax Unit, 99.4 per cent are closed without petition to the board.

Considering the cases in respect of which deficiency letters had to be issued, in more than 81 per cent of the cases handled during the three-year period the taxes proposed were acquiesced in by the taxpayer. Petitions were filed with the Board of Tax Appeals with respect to 40,249 of the tax years closed during this three-year period, or 0.6 per cent of the total years closed. The following tables present a summary of the above statistics:

(a) *Disposition of cases by the bureau*

		Per cent
Total number of cases closed during 3-year period-----	6, 289, 567	
Number closed without mailing deficiency letter-----	6, 065, 908	96. 5
No action by taxpayer after mailing deficiency letter-----	125, 760	2. 0
Agreements with taxpayer after mailing deficiency letter----	57, 650	. 9
Petitions filed with Board of Tax Appeals with respect to--	40, 249	. 6

(b) *Disposition of cases after mailing of deficiency letters*

		Per cent
Number of deficiency letters mailed during 3-year period-----	223, 659	100
No action by taxpayer-----	125, 760	56
Protests, but agreements finally signed by taxpayer---	57, 650	25
Total acquiesced in by taxpayer-----	183, 410	81
Petitions filed with the Board of Tax Appeals with respect to--	40, 249	19

The above statistics show conclusively the effectiveness of the closing of the case by the Bureau of Internal Revenue. Although the situation concerning the department in respect of the accumulation before the Board of Tax Appeals is discussed in detail hereinafter, it is appropriate to invite attention to the fact that the number of cases docketed with the Board of Tax Appeals represents only 0.6 per cent of all tax-year cases closed by the Income Tax Unit during the three-year period ending June 30, 1927, and that 81 per cent of the deficiency letters mailed are accepted without filing a petition with the Board of Tax Appeals.

Analyses and tabulations of the work of the Board of Tax Appeals in respect of the 19 per cent of the deficiency letters in which petitions to the board have been filed are given in the appendix.

### EXCESS PROFITS TAX CASES PENDING

#### Number of old cases pending.

Statements have been made from time to time to the effect that there were large numbers of old cases still pending in the bureau; that taxpayers had found it impossible to close their cases in the

bureau; and that the tremendous burden of the old cases was handicapping the bureau severely in its work upon current cases. The statistics should remove this misapprehension. There are in fact but 3,898 cases in process of audit in the bureau for the years 1917 to 1920. A statement showing the number on hand for each year, as of October 14, 1927, is as follows:

1917-----	512
1918-----	736
1919-----	1,035
1920-----	1,615
Total-----	3,098

### ESTIMATE OF AMOUNTS INVOLVED

An accurate determination of the amounts involved in the old cases still pending is impossible. It is estimated, however, that only \$25,000,000 are involved in cases awaiting original audit, that \$40,000,000 are involved in cases open because of the filing of claims in abatement, and that about \$100,000,000 are involved in cases open because of the filing of claims for refund.

#### Causes for not closing.

An analysis has been made in order to determine why these cases, small as the number is, are still pending. For the purposes of this analysis an "original case" is considered to be one concerning which the bureau has at no date in the past stated a conclusion. All other cases are "reopened cases," reopened at the instance of the taxpayer or by the Government. Under this classification also are included delinquent returns. A detailed discussion of the reopening of cases is given hereinafter. The following analysis is submitted solely for the purpose of determining the status of original cases for the years in question:

#### 1917 cases

	Total cases	Original cases	Reopened cases
Field audit review-----	126	0	126
Consolidated returns-----	249	69	180
Special adjustment-----	58	0	58
Total-----	433	69	364

The 69 cases described as "original cases" are in the consolidated returns audit division. The following tabulation indicates the reasons why such cases have not been heretofore closed:

Number held pending determination of affiliations in a single large case---	13
Number pending recommendations by the office of the general counsel, or awaiting opinions by the general counsel-----	10
Number held pending engineer's or revenue agent's reports-----	11
Number in the 30-day status-----	9
Number of foreign steamship companies-----	9
Awaiting information from taxpayer-----	4
Being transferred to field-----	3
Pending review-----	6
Awaiting conference with taxpayer-----	1
Memorandum transferring cases to special assessment being prepared-----	3

## 1918 cases

	Total cases	Original cases	Reopened cases
Field audit review.....	234	90	144
Consolidated returns division.....	323	172	151
Special assessment section.....	91	33	58
Total.....	648	295	353

The 295 cases described as original cases are in the three sections mentioned above. The following tabulation indicates the reasons why such cases have not heretofore been closed:

Pending compliance with recommendations by the office of the general counsel or are awaiting opinions to be submitted by the general counsel.....	25
Held pending engineer's or revenue agent's report.....	82
In 30-day status.....	36
Foreign steamship companies.....	23
Held pending determination of affiliations in the case of the M Company.....	1
Audit complete—closing letter being typed.....	13
Being reworked in accordance with memorandum from acting deputy commissioner.....	3
Receiving original consideration in consolidated returns audit division. All cases assigned.....	17
Being forwarded to 60-day file.....	16
Awaiting information from taxpayer.....	6
Awaiting completion of assembly.....	6
Being considered under protest of taxpayer.....	2
Pending conference.....	5
Being reconsidered in accordance with B. T. A. ruling.....	1
Statutory invested capital and income being determined prior to transferring case to special assessment.....	1
Awaiting receipt of taxpayer's agreement.....	4
Awaiting decision of Board of Tax Appeals.....	2
Memorandum transferring case to other division being typed.....	2
Pending completion of conference report.....	3
Closing letter awaiting signature.....	2
Pending consideration under section 328, cases unassigned.....	15
Awaiting receipt of returns requisitioned from collector.....	2
Letter being prepared allowing special assessment.....	1
Claims rejection—letter prepared—ready for review.....	1
Awaiting comparatives.....	1
Awaiting legal ruling from rules and regulations.....	1
In process of review.....	2
Cases receiving original consideration under Sections 327 and 328.....	22

Below is a tabulation of the pending 1919 cases:

## 1919 cases

	Total cases	Original cases	Reopened cases
Field audit review.....	278	115	163
Consolidated returns audit division.....	439	282	157
Special assessment section.....	139	43	96
Total.....	856	440	416

The 440 cases described as original cases are in the three sections mentioned above. The following tabulation indicates the reasons why such cases have not heretofore been closed:

Pending compliance with recommendations by the office of the general counsel or awaiting opinions to be submitted by the general counsel.....	25
Held pending engineer's or revenue agent's report.....	85
In the 30-day status.....	52
Foreign steamship companies.....	39
In process of audit—cases recently made available as result of receipt of revenue agent's report, engineer's report or legal rulings.....	93
Fraud not present—returned to consolidated section for audit.....	3
Awaiting legal ruling.....	6
Pending completion of audit of related cases.....	2
Pending completion of assembly.....	9
Being audited under T. D. 4053 recently issued.....	1
Pending conference.....	9
Awaiting information from taxpayer.....	28
Pending review.....	13
Closing letter written or mailed.....	63
Pending supplementary conference report.....	3
Receiving original consideration under sections 327 and 328.....	9

Below is a tabulation of the pending 1920 cases:

*1920 cases*

	Total cases	Original cases	Re-opened cases
Field audit review.....	324	155	169
Consolidated returns audit division.....	740	516	224
Special assessment section.....	238	129	109
Total.....	1,302	800	502

The 800 cases described as original cases are in the three sections mentioned above. The following tabulation indicates the reasons why such cases have not heretofore been closed:

Pending compliance with recommendations by the office of the general counsel or awaiting opinions to be submitted by the general counsel.....	44
Held pending engineer's or revenue agent's report.....	192
In 30-day status.....	152
Foreign steamship companies.....	34
Pending review, typing of closing letters, signature, or in 60-day file.....	133
Recently made active through receipt of necessary information.....	95
Held pending settlement of related case.....	10
Awaiting information from taxpayers.....	69
Awaiting revenue agent's audit.....	24
Pending completion of assembly.....	8
Pending conference of completion of conference reports.....	23
Awaiting legal rulings.....	12
Pending review.....	2
Transferred to other divisions.....	2

## PART 2. OUTLINE OF SUBSTANTIAL ACCOMPLISHMENTS OF THE BUREAU

### Chart of production.

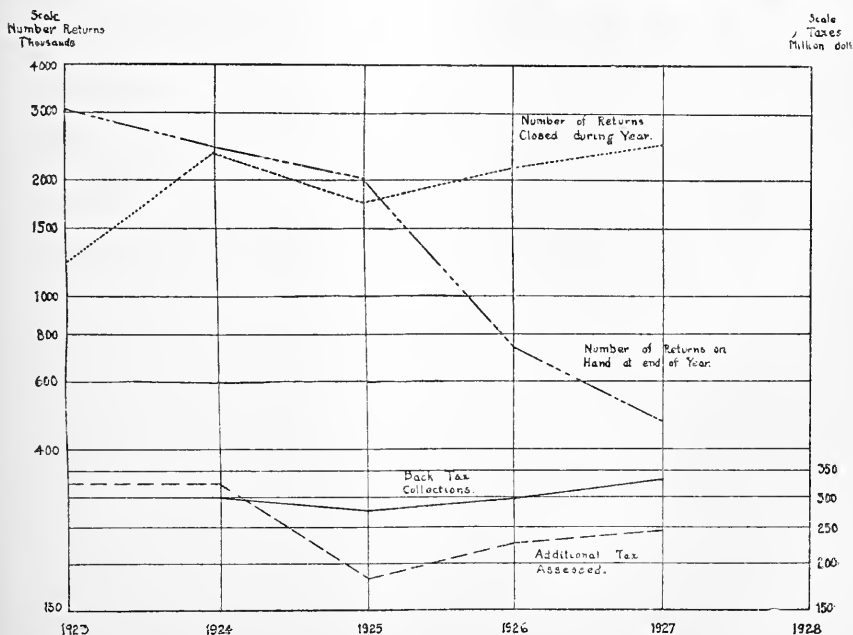
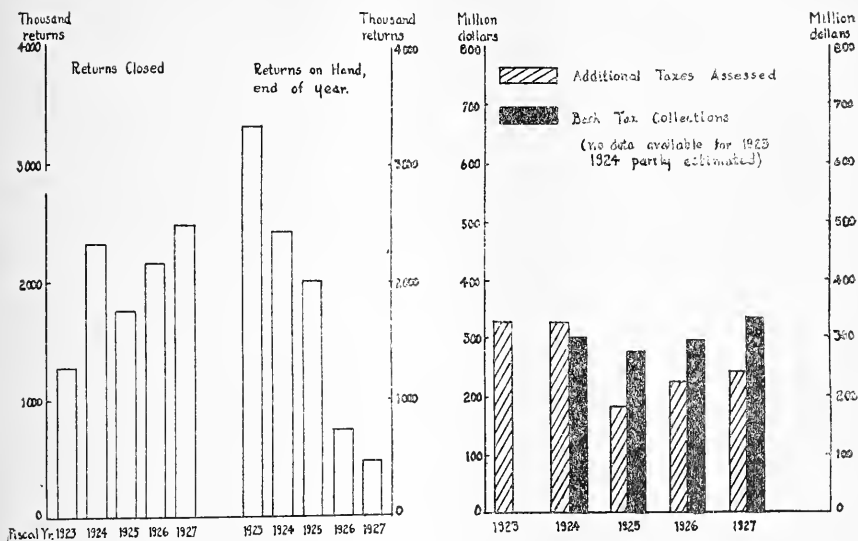
The following chart presents in graphic form, for all years subsequent to 1917 for which information is available, the statistics showing:

- (1) The number of returns closed during each year.
- (2) The number of returns on hand at the end of each year.
- (3) The additional taxes assessed.
- (4) The additional taxes collected.

## BACK TAXES ON INCOMES

Number of Returns Closed, Number on Hand, Additional Taxes Assessed  
and Back Tax Collections, Fiscal Years 1923-1927.

(Reports of Bureau of Internal Revenue)



**Cost of administration.**

The expenditures made for administering the internal revenue laws for the fiscal year 1927 were \$32,967,764.17, not including expenditures for refunding internal revenue collections and taxes illegally collected, which in no sense are administrative expenses. The aggregate receipts of internal revenue for the fiscal year 1927 were \$2,865,683,129.91. Accordingly, the cost of operation last year was \$1.15 for each \$100 collected, as compared with \$1.23 for each \$100 collected for the fiscal year 1926, or a reduction of 6.5 per cent.

Approximately 40 per cent of the cost of administering internal revenue tax laws during the fiscal year 1927 was expended in the auditing of back-year returns. It is not possible for the bureau to segregate the cost of auditing back-year returns from the cost of collecting the current year's revenue, as the work is interlocking to a vast extent, and the attempt to segregate such cost would require a very extensive as well as an expensive system of cost accounting.

The cost of collecting the internal revenue averaged very close to \$1.80 for each \$100 collected for 10 years prior to the World War. Following is a statement showing internal revenue receipts and expenditures, additional assessments, refunds, and number of employees, as well as the relative net cost of collecting each \$100 for the fiscal years 1917 to 1927, inclusive. The cost of enforcing the narcotic and national prohibition acts is excluded.

## INTERNAL REVENUE BUREAU

Number of Employees, Total, in Bureau and in Field; and Cost of Collecting each \$100.00 of Revenue, Fiscal Years 1921-1927

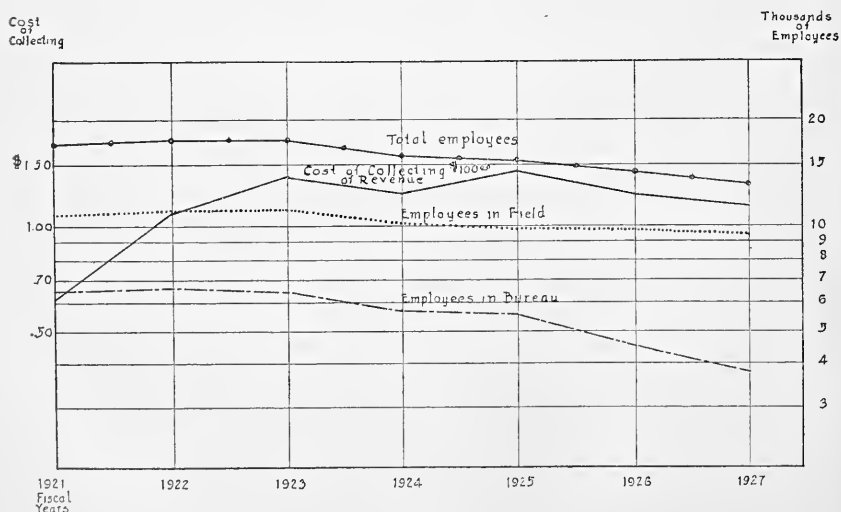


Table showing for each of the fiscal years 1917-1927, total expenditures, total internal revenue receipts, additional assessments from office and field investigations, refunds of taxes illegally collected, cost of collecting \$100, and number of employees as of June 30

Fiscal year ended June 30—	Total expenditures	Total internal-revenue receipts	Amount of additional assessments from office and field investigations	Amount of refunds of taxes illegally collected	Cost of collecting \$100	Number of employees as of June 30
1917-----	\$7,699,031.08	\$809,393,640.44	\$16,597,255.00	\$887,127.94	\$0.95	5,053
1918-----	12,003,214.07	3,698,955,820.93	29,984,655.00	2,088,565.46	.33	9,597
1919-----	20,573,771.52	3,850,150,078.56	123,275,768.00	8,654,171.21	.53	14,055
1920-----	27,037,134.50	5,407,580,251.81	466,889,359.00	14,127,098.00	.50	15,848
1921-----	33,174,309.17	4,595,357,061.95	416,483,708.00	28,656,357.95	.72	17,470
1922-----	34,286,651.42	3,197,451,083.00	266,978,873.00	48,134,127.83	1.07	17,710
1923-----	36,501,062.94	2,621,745,227.57	600,670,632.00	123,992,820.94	1.39	17,613
1924-----	34,676,688.11	2,796,179,257.06	577,710,044.00	137,006,225.65	1.24	15,884
1925-----	37,266,573.16	2,584,140,268.24	312,667,876.00	151,885,415.60	1.44	15,568
1926-----	34,948,483.37	2,835,999,892.19	404,537,468.00	174,120,177.74	1.23	14,333
1927-----	32,967,764.17	2,865,683,129.91	383,965,350.00	103,858,687.78	1.15	13,211
Total..	311,134,683.51	35,262,635,711.66	3,599,760,988.00	793,410,776.10	-----	-----

The preceding chart presents in graphic form certain of the data included in the above tabulation; that is, the relation of personnel to product, and of cost of collection to each \$100 of revenue secured.

The total amount of additional assessments and collections resulting from office audits and field investigations (\$404,537,468) for the fiscal year 1926 is made up as follows:

Income tax-----	<sup>1</sup> \$285,358,165.32
Estate tax-----	20,540,328.39
Gift tax-----	202,039.87
Capital-stock tax-----	7,800,434.54
Sales tax-----	1,103,268.89
Miscellaneous tax-----	132,964.61
Tobacco tax-----	195,663.31
Accounts and collections unit:	
Deputy collectors-----	\$78,500,438.00
Special squads-----	10,704,165.00
	89,204,603.00
Total fiscal year 1926-----	404,537,467.93

Similar figures covering the fiscal year 1927 (\$383,965,350) are as follows:

Income tax-----	<sup>2</sup> \$278,095,961.24
Estate tax-----	12,539,645.83
Gift tax-----	396,777.72
Capital-stock tax-----	6,136,335.72
Sales tax-----	3,228,900.60
Miscellaneous tax-----	59,530.34
Tobacco tax-----	99,710.81
Accounts and collections unit:	
Deputy collectors-----	\$78,616,879.00
Special squads-----	4,791,609.00
	83,408,488.00
Total fiscal year 1927-----	383,965,350.26

<sup>1</sup> Exclusive of \$148,867,165.26 deficiency assessments subject to provisions of sec. 274(d) of Revenue Act of 1924, and secs. 279 and 280 of Revenue Act of 1926 (jeopardy assessments).

<sup>2</sup> Exclusive of \$32,704,156.33 deficiency assessments subject to provisions of secs. 279 and 280 (jeopardy assessments) of Revenue Act of 1926.

It is interesting to note that the total amount of refunds of taxes illegally collected which were made during the past 11 years, namely, \$793,410,776.10, is approximately 22.04 per cent of the total amount of additional assessments and collections resulting from office audits and field investigations (\$3,599,760,988) which have been made during the same period. The percentage of the total refunds made during the past 11 years to the total internal-revenue collections made during the same period (\$35,262,635,711.66) is approximately 2.2 per cent.

#### Returns filed.

62,441,683 individual and corporation returns have been filed for the years 1917 to 1926, inclusive.

#### Delinquent returns.

906,583 taxpayers have been discovered who had failed to file returns, and collections aggregating \$45,885,129 have been obtained from them.

#### Old cases still pending—Excess-profits tax cases.

Less than one-fourth of 1 per cent of all returns for 1921 and prior years remain open.

#### Audit current for years subsequent to 1921.

The audit for years subsequent to 1921 is practically current.

#### Offers in compromise.

1,343,024 offers in compromise were submitted to the bureau during the period 1919 to June 30, 1927, and all have been adjusted but 1,803.

#### Claims.

2,214,472 claims have been received during the years 1917 to 1926, inclusive, and all but approximately 18,000 have been adjusted.

#### Growth of the Bureau of Internal Revenue.

Prior to the year 1913 the greater part of the revenue of the Government was derived from the tax on distilled spirits, liquors, and tobacco. The tax collected in 1913 was only \$344,424,453.85.

The income tax law was passed in 1913. The provisions were comparatively simple, the amounts involved were not large, and the tax collected for the next few years averaged \$436,137,734 annually. But when we entered the World War the tax on incomes was greatly extended in order to meet the greatly increased expenditures of the Government.

The following tabulation is indicative of the increase in the size of the undertaking:

*Returns filed with and revenue collected by Bureau of Internal Revenue from 1916 to 1920, showing also percentage of increase for years 1917 to 1920 over 1916*

Year	Return filed	Percentage increase over 1916	Revenue collected	Percentage increase over 1916
1916.....	778, 289	-----	\$512, 723, 287. 77	-----
1917.....	3, 824, 316	392	809, 393, 640. 44	58
1918.....	4, 742, 693	510	3, 698, 955, 820. 93	621
1919.....	5, 652, 958	627	3, 850, 150, 078. 56	658
1920.....	7, 605, 539	878	5, 407, 580, 251. 81	956



With the increase in the revenue and the returns shown above went a corresponding increase in the difficulty and burden of the work to be performed. To get immediately a sufficient number of men with the proper qualifications was impossible. Many of the best qualified men were in the war. The bureau had the keenest competition with private industry in securing such accountants and engineers as were not actually in the war. We were unable to meet the salaries that private concerns could pay. Lastly, there were few whose training and experience had equipped them to meet the novel, intricate problems presented.

### PART 3. COMPLEXITIES OF THE WORK

A review of the more difficult and technical tasks thrust upon the bureau in the administration of the internal revenue laws may be described briefly.

#### **Valuations.**

The laws require valuations of all natural resources—mines, minerals, timber, oil, and gas—in this country as of March 1, 1913, and also as of the date any of the above property was transferred to a corporation for stock. The valuation of all tangible property as of the same two dates for invested capital and depreciation purposes was necessary. Valuation of intangible properties, including patents, copyrights, good will, processes and secret formulas (no precedents for the valuation of which existed), for invested capital and depreciation purposes was also necessary.

#### **Amortization allowances.**

The allowance of a deduction for amortization of war facilities imposed upon the bureau a unique problem in the determination of which more than \$600,000,000 was involved. This novel allowance required the determination of such questions as what property is to be classed as a war facility and the value of the property to the taxpayer after the war period.

#### **Depletion.**

The allowance for depletion has the appearance of comparative simplicity. What is actually involved, however, is the valuation as of March 1, 1913, or some other basic date, of all the natural resources in operation for profit. Practically all the natural resources in this country have been valued in the short space of five years.

#### **Affiliations.**

Some of the most complex problems in the administration of the revenue laws are involved in the determination of invested capital of a closely allied, or consolidated, group of corporations.

The proportions which a single case may assume are brought out by the case of a certain large corporation, where the assessment letter, merely showing the mathematical adjustments, covered 2,267 pages, with 317 pages of exhibits. The difficulty of the questions involved in adjusting cases is shown by the fact that in 15 recent tax cases decided by the Supreme Court of the United States 9 have been decided by a divided court.

A report from several attorneys in the general counsel's office is included in Chapter V showing the issues involved in the cases pending before them. There will also be found in the appendix illustrations of the problems involved in a few typical cases and of the procedure preceding settlement of a case. Undoubtedly, many of the most aggravating complexities will disappear with the final disposition of the excess-profits tax cases. New and unforeseen problems, however, are constantly arising and will continue to do so. We have not yet reached the difficulties involved in reorganizations, for example.

#### PART 4. OPERATIONS OF THE BUREAU

##### (a) THE HANDLING OF INDIVIDUAL RETURNS (FORM 1040)

###### IN COLLECTOR'S OFFICE

Taxpayer files return with collector for his district with payment either of one-fourth or all of tax due.

Collector assigns appropriate serial number to return. (Different series are assigned to different classes—as 1040-A part paid, 1040-A full paid, 1040 part paid, 1040 full paid, nontaxable, etc.)

Comptometer operators verify accuracy of tax computations. If error has been made, correct amount of tax is indicated and listed, and taxpayer is notified.

Revenue agents make separation of returns to classifications—"Accepted," "Office audit," and "Field audit."

"Accepted" return, one which appears to be correct as submitted.

"Office audit," one with respect to which agent thinks inquiry should be made concerning certain debatable item or items.

"Field audit," one with respect to which agent thinks taxpayer's records should be examined.

Returns in blocks of 100, arranged according to numbers, together with the lists are forwarded to Washington. This applies to all 1040 returns.

###### IN WASHINGTON

###### PROVING SECTION

Amount of tax shown on return by taxpayer, or as changed by collector, checked against list. A green pencil is used to circle on the return the amount of tax listed. This green-circled amount is used subsequently by employees in setting up additional tax statements or overassessment statements.

The charge against collectors is established as a consequence of this check.

"Office audit" and "Field audit" returns are separated at this point from "Accepted" returns, and the two former classes at once routed to the statistical section. No review is given these returns in Washington at this stage of the procedure. The "Accepted" returns are forwarded to the preliminary audit section.

**"OFFICE" AND "FIELD AUDIT" CASES IN STATISTICAL SECTION**

The "Office audit" and "Field audit" returns are routed to the statistical section from the proving section in order that the data necessary in the preparation of statistics of income may be obtained. Returns so marked are given first attention in the statistical section in order that they may be returned to the field at the earliest practicable date.

In the statistical section the control record for returns of the two classes above mentioned is prepared.

**"ACCEPTED" RETURNS IN PRELIMINARY AUDIT SECTION**

"Accepted" returns are routed from the proving section to the preliminary audit section for review and closing. If the preliminary audit section agrees with the field classification of the return as accepted, a form letter in notification to the taxpayer that the case is closed is mailed and the return is routed through the statistical section to the files section of the records division. If the classification of the agent is not accepted, the return becomes an "Office audit" or "Field audit" case, as the circumstances may warrant.

**"OFFICE" AND "FIELD AUDIT" CASES IN FILES SECTION**

"Office audit" and "Field audit" cases are received in this section from statistical section. The control record is established, and the returns are routed to the field—revenue agent or collector—according to the condition of the work in the offices of the officials for the different geographical locations. Charges are made upon the control record showing dates returns are forwarded to the field. Invoice lists accompany the returns.

**"ACCEPTED" RETURNS IN FILES SECTION**

"Accepted" cases are placed in an alphabetical file, no further action is contemplated, and the case is considered to be closed.

**IN OFFICES OF COLLECTORS OF INTERNAL REVENUE OR REVENUE AGENTS****"AGREEMENT CASES"**

"Office audit" cases in the offices of collectors or revenue agents are handled usually by obtaining from taxpayer by letter or personal contact, information with respect to certain items not sufficiently explained in the return as submitted.

"Field audit" cases in the office of collectors or revenue agents are handled by having the representatives of the bureau (deputy collectors or revenue agents) make an examination at the place of business or residence of the taxpayer.

If, after discussion with the taxpayer, an agreement is reached as to the amount of the additional tax due, an appropriate form is signed by the taxpayer and the return, together with copy of the report, agreement, correspondence, etc., is routed to the appropriate collector for listing of the additional tax. The taxpayer is billed by

the collector for the additional tax. The amount of additional tax is placed upon the collector's monthly assessment list, and the file of the case is forwarded to Washington with the list.

The procedure in respect of the "agreement cases" in the bureau in Washington is similar to that described above as that followed by an "Accepted" return, except that no review of the case is undertaken in the preliminary audit section unless the case involves a tax in excess of \$5,000, except that test reviews are conducted in the preliminary audit section of one-tenth of all such cases regardless of the amount involved. If the final disposition is accepted, the case is considered to be closed.

If the revenue agent develops an overpayment and a refund is suggested, the cases are routed to Washington, and each case is subjected to careful review, following which, if the audit as conducted in the field is approved, the allowance is scheduled for payment and the return and accompanying documents filed. The case is then considered to be closed.

#### "NONAGREEMENT CASES"

If the collector or revenue agent and the taxpayer do not reach an agreement, the complete file is forwarded to Washington. The case is at once routed to the appropriate basic audit section. It is reviewed and, if Washington agrees with the agent, the appropriate letter is issued. This letter advises the taxpayer to submit his protest, if he desires to submit one, through the revenue agent in charge, who comments upon the protest and forwards it to Washington.

If the bureau after further consideration and conferences with the taxpayer can not reach an agreement with the taxpayer a 60-day letter is issued.

If no petition is filed with the United States Board of Tax Appeals within 60 days, the tax is assessed. The case is thereupon considered to be closed. If the taxpayer files a petition with the board, the entire file is transmitted to the office of the general counsel. The case is ultimately submitted to the board and a determination in respect of the controversy is reached.

Unless the taxpayer formally agrees to the determination by the board, the case must be held six months by the office of the general counsel, since within that period the taxpayer may file suit in the appropriate court.

At the end of six months, no appeal having been taken, the case is returned by the general counsel to the Income Tax Unit, the tax assessed, the return and accompanying document sent to the file, and the case is finally closed.

If an appeal is taken to the court, the case is not returned nor the tax assessed until a final decision is reached. Immediately thereafter the tax is assessed in accordance with the final decision and the case is finally closed.

#### (b) THE HANDLING OF CORPORATION RETURNS

The corporation return (Form 1120) follows the routing of the Form 1040, with the exception of certain cases, which because of

special technical features are routed, after statistical attention, to the appropriate audit units in Washington before reference to the field.

Consolidated returns are marked with the symbols "C. R." and forwarded to the consolidated returns division. A like procedure is followed in connection with cases involving certain natural-resource features. Railroads can usually be best audited by a reference to Interstate Commerce Commission reports, other public utilities by a check against reports to State commissions, and insurance company cases by a reference to reports to State insurance commissions.

Except as noted above, the routing followed by a corporation return is exactly that followed by the return of the individual.

### (c) THE HANDLING OF CLAIMS FOR REFUND

#### INCOME TAX UNIT

A claim for refund of taxes illegally or erroneously assessed and collected is filed by the taxpayer, on Form 843, with the collector of internal revenue for the district in which the return was filed. If the claim applies on a return that is required to be forwarded to Washington, the collector records and forwards the same to the bureau in Washington. If it applies on a return which under procedure is required to be retained for the permanent files in the office of the collector, it is adjusted in the collector's office.

Refund claims received in the Income Tax Unit are adjusted in conjunction with the audit of the return. The claim is first received in the central mail room of the bureau and routed directly to the claims control section of the clearing division, where it is determined whether or not the claim is correctly prepared. If so, it is given a control number and under this number all subsequent action of the Income Tax Unit is taken. All necessary correspondence and related papers or returns to be considered in the adjustment of the claim are then assembled and such papers, together with the claim, are examined by competent auditors to determine whether the case may be settled in Washington or whether it will require a field investigation. Unless there has been a previous field examination, or the point involved is one with respect to which there is no uncertainty, the claim is immediately referred for field investigation. The reference to the field of all claims where there is not sufficient record within the bureau upon which to base definite action represents a change in procedure directed toward more completely guarding the interests of the Government and accomplishes a more complete check.

Upon the receipt of the report and recommendations of the field forces, the claim and the case are then assigned to a specific auditor by the section unit auditor. After completion of the audit it is reviewed by the section unit auditor and sent to the review section, where the claim and the case are reviewed and passed upon as to the correct tax liability of the return and the proper adjustment of the claim.

In the event the amount of the refund allowed is in excess of \$50,000, the case is sent directly from the review section to the general counsel's office in the bureau for review and approval, after which it is forwarded to the claims control section.

If the allowance is in excess of \$75,000, and any payment on account of the allowance is to be made, the case is sent from the review sec-

tion of the audit division to the general counsel's office in the bureau for review and approval, and is then forwarded to the claims control section. A copy of the general counsel's memorandum in discussion of the circumstances of the adjustment is forwarded to the Joint Committee on Internal Revenue Taxation, as required by the appropriation act approved February 28, 1927, making \$175,000,000 available for the refund of taxes erroneously or illegally collected.

If an overassessment is determined, the item is listed on a schedule of overassessments (Form 7920) by the claims control section. The schedule is signed by the commissioner, indicating, among other things, the approval and allowance of the overassessment (or reduction of tax liability) and sent to the collector for the district in which the return was filed.

The collector examines all accounts of the claimant on the assessment lists in his office to determine whether the taxpayer is indebted to the Government for taxes for any taxable period. If the taxpayer's accounts in the collector's office are fully paid, the collector lists the refundable amount in the appropriate column of the schedule of overassessments (Form 7920) and the schedule is returned to the Income Tax Unit. The interest under section 1116 of the Revenue Act of 1926, payable upon the refunds and credits, is computed in the claims control section and listed on the schedule. The total of the principal and interest to be paid is then noted on the schedule, which is forwarded to the Comptroller General of the United States, in order that (a) the amounts indicated as payable in connection with income taxes may be checked against the records of indebtedness to the Government, with a view to withholding payment of the refund in the event of such indebtedness, and (b) for approval by the General Accounting Office prior to payment of the refund. The schedule is returned to the claims control section and is then sent to the accounts and collections unit of the bureau, wherein it is determined whether the money for payment is available in the appropriation which is properly chargeable, and that unit records against the appropriation concerned the total amounts payable, as listed on the schedule. The accounts and collections unit forwards the schedule to the disbursing clerk of the Treasury Department, who issues disbursement checks to the taxpayers in the amounts payable, as listed opposite their names on the schedule.

If a claim for refund has not been filed by a taxpayer and the audit of his return in Income Tax Unit discloses the fact that an overassessment has been made, a certificate of overassessment (Form 7776) is issued by the Income Tax Unit, and (after passing through the same review procedure as a claim) the amount of the overassessment is listed on a schedule of overassessments (Form 7920).

Refund claims applying on returns of gross income of \$25,000 or less, for the taxable years 1924 and 1925, \$15,000 or less for the taxable year 1923 (Forms 1040 and 1040-A), and on returns of net income of \$5,000 or less (Form 1040-A) for years prior to 1923, are adjusted in the collector's office for the district in which the return was filed and, with the exception of income-tax refunds of \$20 or less, Forms 844 (notices of refund) are prepared in quintuplicate for the amounts allowed by the collector. These forms show the amounts assessed and paid, the dates of payments and the amount refundable, together with a statement of the reason therefor. They

are forwarded to the Income Tax Unit in quadruplicate. These forms are also prepared by collectors for pure excess collections; reductions in tax liabilities on all forms of returns because of duplicate assessments which have been paid; overpayments of interest for failure to pay tax when due; 5 per cent penalty for delinquency in payment of tax; and interest on deficiencies or additional taxes when the interest was placed on the assessment list by the collector. When received in the unit the Forms 844 are reviewed and verified and, if allowable, interest under the provisions of section 1116 of the Revenue Act of 1926 is computed and the amounts payable are listed on Form 7920 (schedule of overassessments), which is routed to the Commissioner of Internal Revenue for his approval, then to the General Accounting Office, the accounts and collections unit for the purpose outlined above, and to the disbursing clerk of the Treasury Department for payment.

In the case of income-tax refunds of \$20 or less, Forms 844 are not required. Such items are scheduled on Form 7809-A by the collectors. The schedules are sent to the bureau and go through the procedure established for schedules prepared in the bureau.

#### DISBURSING CLERK

Upon receipt of properly approved schedules of overassessments (Form 7920), schedules of refunds (Forms 7809 and 7809-C), schedules of income-tax refunds amounting to \$20 or less (Form 7809-A), the disbursing clerk of the Treasury Department prepares his disbursement checks in the amounts of the several net refundable items in favor of the respective taxpayers against whose accounts net refundable amounts shall have been allowed by the commissioner, forwards such checks, together with the certificate of overassessment (Form 7776) or notice of refund (Forms 844 and 7801), which forms accompany the schedules, to the respective collectors of internal revenue, who, in turn, mail the checks to the taxpayers concerned in their respective districts after a final examination and verification by the collectors.

#### (d) THE HANDLING OF WITHHOLDING RETURNS

Withholding returns, Monthly Form 1012, are filed by debtor corporations direct with sorting section. They are accompanied by three forms of certificates—1000, 1000-A, and 1001. Where the bond contains a tax-free covenant clause, the bondholder will execute either Form 1000 or 1000-A—

(1) Form 1000 where the bondholder's taxable income is in excess of \$4,000 and the bonding company is liable for the 2 per cent tax.

(2) Form 1000-A where the bondholder's taxable income is less than \$4,000 and the bonding company is required to pay 1½ per cent tax.

The bonding company lists each certificate on monthly Form 1012, acknowledging its liability for the tax. Upon receipt of these monthly forms in sorting section the items of tax shown on the certificates are checked with the 1012 list.

In the check of certificates and list, it is frequently found that the bonding company sets up its liability at the 1½ per cent rate when

the bondholder has filed certificates setting up the liability at 2 per cent. The increased liability is noted on the Form 1012.

On or before March 15 of the succeeding year the bonding company is required to file an annual Form 1013, which is a summary of Form 1012, and shows the total tax liability of the bonding company. This form is filed with the collector and listed for assessment and forwarded through proving section and subsequently forwarded to sorting section where the Form 1012 are checked with it.

The sorting section withdraws the Form 1012 to be matched with the Form 1013. Increased liability noted on the 1012 is transferred to the 1013 and additional assessment is made against the bonding company.

The certificates, Forms 1000 and 1000-A, which have been checked with the Form 1012 are then assembled with other certificates for the same individuals to be later checked against the individual returns filed by the taxpayers.

(3) Form 1001 is executed by the bondholder to show that his total income is less than the credits and exemptions allowed, which relieves the bonding company of tax liability. These exemption certificates are not listed, but are forwarded for statistical purposes only.

## PART 5. RECENT CHANGES IN ADMINISTRATIVE PROCEDURE

Numerous changes have been made from time to time directed toward increasing the efficiency and effectiveness of the work in the bureau. A few of these changes are described below:

(1) *Preliminary audit*.—In section 274 (f) of the Revenue Act of 1926, there appears the following language:

SEC. 274 (f) \* \* \* If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subdivision or of subdivision (a) of this section, or of subdivision (d) of section 284, as a notice of a deficiency, and the taxpayer shall have no right to file a petition with the board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subdivision (a) of this section.

The purpose of this legislation was to permit the Bureau of Internal Revenue to correct immediately mathematical errors found in current year returns. Prior to this enactment no amount of tax could be assessed in excess of that indicated by the taxpayer, even though an erroneous amount was plainly indicated, without full compliance with all of the procedure provided for the assessment of deficiency taxes.

To obtain the full benefits of this legislation a force of comptometer operators is assigned to each collector's office to verify the arithmetical accuracy of the returns as submitted. This work is done before the amount of tax to be assessed is listed, in order that the correct charge may be set up against the taxpayer.

This feature of the preliminary audit procedure has saved much time to the Government and has resulted in a more prompt collection of many millions of dollars.

The comptometer process is, in fact, the so-called preliminary audit, but the term "preliminary audit" is directed at this time to a wider



range of effort. To-day it means also "job selection." This means that instead of looking upon the job for a current year as an intensive audit of all returns filed, the appropriate representatives of the unit (revenue agents) familiar with local conditions, and who in many instances have conducted investigations of the taxpayers for prior years, now survey all the returns that are to be forwarded to Washington for the purpose of segregating them into the following classifications: "Accepted," "Office audit," and "Field audit."

A case marked for "Field audit" is one which, based upon the experience of the agent making the segregation, ought to be carefully examined at the books of the taxpayer. The previous history of the case, deductions which are not properly explained, or a tax result not in harmony with that which ought to have been reached upon the basis of the income statement, having in mind the particular territory and industry involved or other similar circumstances, will determine whether or not a case is to be investigated in the field.

A case marked for "Office audit" is one with respect to which it appears to the agent that it might be beneficial both to the taxpayer and the Government to have the taxpayer called at the proper office and discuss certain features which are not clearly explained upon the return.

The value of the office audit work (although considerable revenue is derived from the work) is educational in that taxpayers with whom items not sufficiently explained are discussed, will benefit in the opportunity thus presented to learn the manner in which the items questioned should be presented in subsequent years. This, of course, means a saving to the Government in subsequent years' audit.

The "accepted" return is the return which, in the opinion of the revenue agent, reports the tax result to be logically expected upon the basis of the income figures.

Approximately 75 per cent of all returns which under the regulations of the department are forwarded to Washington are marked "accepted" by revenue agents. It is reasonable to expect that this ratio will increase as the laws are simplified and taxpayers become better acquainted with the laws.

As a consequence of the preliminary audit, the bureau, within a few months after the returns of the current year have been filed, has selected as the job of the Income Tax Unit for audit about 25 per cent of the returns, and 75 per cent have been closed. The confusion incident to an attempt, under the lengthy procedure previously followed, to handle the great number of returns has been eliminated, and the job is found to be an intensive audit, not of 1,200,000 returns, but of 600,000 returns.

During the fiscal year ended June 30, 1927, there were examined in the field divisions 688,816 tax years. The Bureau of Internal Revenue should be developed and organized as so to handle within two years all the audits for the current year.

(2) *Decentralization*.—Perhaps the outstanding change in policy from which more benefits to the bureau were derived and, as a consequence of which more progress was made upon the audit than from any other, is the change which definitely established in the field offices the basic audit activity of the Bureau of Internal Revenue.

For several years the bureau undertook what was called a "desk" or "correspondence" audit. The results of that audit were never

satisfactory and in practically every case, where a deficiency in tax was proposed, after the lapse of long periods, it had to be referred to the field. As a consequence of the policy of having the initial action in all audits taken in the field, the department eliminated the waste of time that had theretofore resulted.

Decentralization has resulted as well in benefit to taxpayers, particularly in permitting an opportunity to discuss their cases with a representative of the bureau at their place of business or at their home. It has saved both the taxpayer and the Government money and time. It has resulted in a better understanding on the part of the taxpayer of the tax laws and of the purposes of the audit.

A striking benefit of decentralization of audit is observed in the savings that have been effected for the Government in the consideration of refund claims filed by taxpayers. It frequently occurs that in the course of an examination of the books of the taxpayer and of the circumstances upon which the taxpayer depended for refund, compensating changes favorable to the Government have been made, with the result that the taxpayer, while maintaining the contention the basis of the claim, is not entitled to a refund. If these claims had been considered in Washington and no thorough investigation of the books conducted, they would have been allowed. During the fiscal year ended June 30, 1927, consideration in the field of refund claims of the face value of \$47,600,000 resulted in recommendations for the rejection of about \$28,000,000 and the allowance of about \$7,600,000. It is interesting to note that as a result of these investigations the bureau also recovered additional taxes aggregating over \$11,000,000.

(3) *Abolishing claims section.*—Prior to the year 1922 a section designated the claims section handled the adjustment of all claims. It was separate and distinct from the audit section and had no direct relation to the audit of returns. An audit of a case might be under conduct in a separate unit and at the same time a claim might be on file in the claims section. In January, 1922, the claims section was abolished and the consideration of a claim became an incident of the audit.

(4) *Abolishing specialization in audit.*—Until March 21, 1924, the policy was followed of maintaining audit units specializing in the audit of cases involving manufacturing, trading, finance, public utilities, etc.

On the date above referred to specialization in audit was abolished and audit units were developed based upon a geographical outline. This arrangement was more in harmony with the needs of the public, and developed a better understanding between the field forces and the audit units in Washington.

(5) *Consolidation of operating units.*—A constant and orderly policy has been pursued to eliminate excessive overhead and to bring under one management related undertakings. During the early history of the Income Tax Unit many independent units were established. It appeared that specialization was necessary to handle the task. There was an inventory section, an amortization section, a claims section, an independent review division, and other special units to handle particular problems. This necessitated a constant transfer of cases, with an accompanying loss of time and of files. In the rearrangement and reduction of the units there is a concerted and continued move to correct this unsatisfactory condition.

(6) *Sending the man to the job.*—The policy of sending the man to the job is constantly being promoted. In the early years of the bureau's history the effort appeared to be to move the work to the force. However, it became evident that if it were possible to move the employees to the work much better results could be obtained. This has proved to be a very sound policy. An outpost review has been established. Representatives of the general counsel's office have been placed in the audit units of the Income Tax Unit. By decentralization of the audit the field forces have become the fact-finding representatives of the bureau. Formerly it was customary to attempt to secure all necessary facts by correspondence with the taxpayer.

(7) *Closings under the provisions of section 1106 (b) of the Revenue Act of 1926.*—Within recent months the bureau has adopted the policy of advocating a closing agreement, under the provisions of section 1106 (b) of the Revenue Act of 1926, in cases involving an amount in excess of \$5,000 for any one year.

Cases closed under such an agreement will not be subject to claim for refund, with consequent reopening and reconsideration. Neither can it be reopened by the Government.

The bureau hopes to close with final agreements a large number of the cases now pending for 1922 and prior years.

During the months of August and September 582 applications were received. Inasmuch as the average number received per month is fourteen and one-half times the average per month from November 23, 1921, to June 1, 1927, it is evident that the new procedure is responsible for the increase in the number of requests received.

(8) *Procedure with respect to jeopardy assessments.*—After the passage of the revenue act of 1926 changes were initiated in procedure with respect to jeopardy assessments as follows:

(a) No jeopardy assessments are made because of the running of the statute of limitations.

(b) Jeopardy assessments are made (A) where taxpayers are in bankruptcy or where corporations are in dissolution, and (B) in cases where it is necessary to prevent taxpayers from disposing of their property in an effort to defeat the collection of such tax as may be due. Instances of this character would be where it is known or presumed that a taxpayer was intending to leave the country or where fraudulent transactions were developed; also where it is known that the taxpayer is or intends to dissipate the assets. Usually jeopardy assessments are made only in cases in which fraud circumstances are developed.

The audit sections work up the case with appropriate schedules, attaching thereto a memorandum addressed to the head of the unit explaining fully the circumstances and basis for the assessments.

The case comes to the office of the head of the unit for approval or disapproval, after which it goes to the proving section for assessment if the jeopardy assessment is approved.

The 60-day letter is held by the proving section for a period of 30 days after the assessment has been made, so that the collector may advise the head of the unit if his office has secured bonds or if the taxpayer has made payment of the tax. At the expiration of the 30-day period the 60-day letter is registered and mailed to the taxpayer.

As a consequence of this change of procedure the jeopardy assessments for 1927 were \$32,704,000, as compared with \$148,867,000 for the previous fiscal year.

The reasons for making these assessments during the fiscal year ended June 30, 1927, are as follows:

Taxpayers have not sufficient assets.....	25
Under indictment, using mail to defraud.....	1
Illegal alcohol transactions.....	21
Convicted of embezzlement.....	1
Disposing of assets.....	60
Taxpayer leaving United States.....	3
Property in hands of Alien Property Custodian.....	1
Serving term in workhouse.....	1
Proof of claim must be filed at once; estate in process of administraton....	4
Taxpayers transferring assets.....	5
Question of priority of tax between New York State and Federal Govern- ment.....	1
Concealing assets.....	4
Offers in compromise.....	7
Leaving State.....	4
Address unknown.....	2
Total.....	140

(9) *Special advisory committee.*—The Treasury's appreciation of the necessity for immediate and effective relief of the burden now imposed upon the Board of Tax Appeals and the general counsel's office, after a careful analysis of the cases contributing to the congestion and of the classes of cases capable of disposition by administrative action within the Treasury, led to the establishment in the office of the Commissioner of Internal Revenue of an agency known as the special advisory committee. In the opinion of the Treasury the best interests of the Government, of the Board of Tax Appeals, and of the public demand that every effort be directed toward practical and effective solutions of the problem. It is expected that the committee will render material assistance in the disposition of cases within the following classes:

(1) Cases involving deficiencies of less than \$1,000 and not involving important principles;

(2) Cases involving difficult or technical questions of fact, such as valuations, rates of depreciation, bad debts, reasonable salaries, etc., but not involving questions of law;

(3) Cases in which the deficiency letters were mailed in order to protect the interests of the Government from the bar of the statute of limitations;

(4) Cases involving administrative policies in which the interests of the Government require a change in the policy in force at the time the deficiency letter was mailed; and

(5) Cases in which the petition was filed by the taxpayer because of a misunderstanding of the position of the bureau, or on account of a clerical error in the bureau's determination.

In the establishment of the committee every effort has been made to avoid the creation of a new agency to whom the taxpayer may appeal. If the committee is to function properly, it must do so by a careful selection of the cases to be considered by them. No taxpayer should, as of right, be given an opportunity to present his case to the committee. Nevertheless the taxpayer whose case is before the committee should be given an opportunity to have a hearing wherever practical before at least one of the persons by whom the decision will be made.

The committee is organized into divisions, each division consisting of three members. Conferees are assigned to divisions to assist

in the expeditious preparation of the case and in hearing and considering the arguments of the taxpayer. Upon the conclusion of the hearing a memorandum is prepared by the conferees and is routed, together with the case, to the three members of the division. Each member of the division passes upon the case individually. If the recommendations made are concurred in by each of the three members, or are revised and the revision concurred in by each of the three members, the case is submitted to the chairman of the board. If the chairman approves, the case is then transmitted to the Commissioner of Internal Revenue for his approval or disapproval. The final responsibility for the disposition of the case, therefore, rests directly upon the commissioner.

The committee has not been operating during a sufficient period of time to permit an accurate prediction based upon its production record. The final settlements effected by it (averaging about 260 a month) have resulted in a rather substantial reduction in the number of petitions, which would otherwise have required decisions by the board. As its experience and personnel permit effective functioning, the number of cases finally settled without action by the board should approximate 500 a month. The success of the committee will depend ultimately upon its ability to bring cases to a settlement promptly, expeditiously, and satisfactorily, and upon the support and cooperation accorded it.

#### PART 6. REOPENING OF CASES

##### Number reopened.

The extent to which cases which have been closed by the bureau are reopened is revealed by the following tables:

##### *1917 returns*

Fiscal year ended June 30—	On hand beginning of fiscal year	Number reopened	Number closed	On hand at end of fiscal year
1922.....				123,308
1923.....	123,308	9,209	92,872	39,645
1924.....	39,645	27,350	56,768	10,227
1925.....	10,227	11,481	18,291	3,417
1926.....	3,417	7,594	9,639	1,372
1927.....	1,372	2,366	3,116	622

On June 30, 1922, there remained on hand only 123,308 cases. Since that period 180,686 have been closed. There is a balance on hand of 622. Accordingly 58,000 cases were reopened.

##### *1918 returns*

Fiscal year ended June 30—	On hand beginning of fiscal year	Number reopened	Number closed	On hand at end of fiscal year
1922.....				114,956
1923.....	114,956	53,585	71,675	96,866
1924.....	96,866	17,771	75,845	38,792
1925.....	38,792	3,055	35,845	6,002
1926.....	6,002	9,870	13,995	1,877
1927.....	1,877	5,398	6,414	861

On June 30, 1922, there remained on hand only 114,956 cases. Since that period 203,774 have been closed. There is a balance on hand of 861. Accordingly 89,679 cases were reopened.

*1919 returns*

Fiscal year ended June 30—	On hand beginning of fiscal year	Number reopened	Number closed	On hand at end of fiscal year
1922.....				354,947
1923.....	354,947	59,999	234,818	180,128
1924.....	180,128	76,090	151,441	104,777
1925.....	104,777	31,020	123,642	12,155
1926.....	12,155	20,980	30,507	2,628
1927.....	2,628	7,976	9,420	1,184

On June 30, 1922, there remained on hand only 354,947 cases. Since that period 549,828 have been closed. There is a balance on hand of 1,184. Accordingly 196,065 cases were reopened.

*1920 returns*

Fiscal year ended June 30 •	On hand beginning of fiscal year	Number reopened	Number closed	On hand at end of fiscal year
1922.....				1,045,674
1923.....	1,045,674	95,516	682,985	458,205
1924.....	458,205	281,716	520,099	219,822
1925.....	219,822	28,953	158,029	90,746
1926.....	90,746	79,297	162,922	7,121
1927.....	7,121	16,932	21,972	2,081

On June 30, 1922, there remained 1,045,674 cases. Since that period 1,548,088 have been closed. There is a balance of 2,081 on hand. Accordingly 502,414 cases were reopened.

*1921 returns*

Fiscal year ended June 30—	On hand beginning of fiscal year	Number reopened	Number closed	On hand at end of fiscal year
1923.....				1,190,902
1924.....	1,190,902	10,093	837,121	363,874
1925.....	363,874	52,374	245,027	171,221
1926.....	171,221	178,088	341,117	8,192
1927.....	8,192	22,818	28,990	2,020

On June 30, 1923, there remained 1,190,902 cases. Since that period 1,452,255 have been closed. There is a balance of 2,020 on hand. Accordingly, 263,373 1921 cases were reopened.

To summarize: 1,109,939 cases for the years 1917 to 1921, inclusive, have been reopened, and all but 6,768 of the returns for these years had on June 30, 1927, been closed. It is apparent that the reopening of cases presents a very real problem.

**Cases reopened by the taxpayer.**

Claims for refund are filed to prevent the tolling of the statute of limitations and upon any appropriate basis within the statutory period. Cases that have been the subject of claims for refund which have been rejected are subsequently reopened, without regard to the statutory period, upon the basis of favorable court decisions, retroactive legislation, or a reversal of bureau position. The taxpayer upon the presentation of additional material facts, such as information supporting a higher rate of depreciation, information supporting a claim for a lower inventory than that previously used, information establishing a new or different value, and other information not previously before the bureau may also under the provisions of Treasury Decision 3240 reopen cases that have been previously closed.

**Cases reopened by the Government.**

Cases are reopened by the Government on account of court decisions, retroactive legislation, a reversal of previous position, and the acquisition of additional information, such as a discrepancy discovered upon the audit of another case (usually a disbursement in another case not reported by the recipient), a necessary adjustment resulting from a decision of an associated case (principally the determination of a personal service, trust, or partnership case), supplemental investigation by a revenue agent (usually as the result of information procured during the examination of another case), and reports of field examinations received after office audit. However, the Government can not under any circumstances reopen a case for the purpose of assessing deficiency taxes after the statute has run.

**Closing agreements will prevent reopening.**

Every effort should be made to familiarize taxpayers with the provisions of section 1106(b). When a final agreement is entered into under the provisions of this section, neither the taxpayer nor the Government can reopen the case.

**PART 7. PERSONNEL**

The bureau has been handicapped severely in its administration by the constant turnover in personnel, particularly of professional and technical officials; in the Income Tax Unit alone 11,934 appointments were made during the period from October 1, 1919, to June 30, 1927. There were 11,038 separations, of which 5,178 were highly trained technical or professional employees.

It is impossible to estimate the cost to the Government resulting from the loss of experienced and efficient employees. The figure undoubtedly runs into the millions. Considering the cost of training—about one-half of a year's salary—the turnover in the Income Tax Unit has cost \$13,086,750. And this amount is insignificant in comparison with the actual cost resulting from the loss of ability, experience, and judgment.

The cost of collecting internal-revenue taxes for the fiscal year 1927 was \$32,967,764.17. There was assessed and collected from delinquent taxpayers alone—that is, those who failed to file returns—the amount of \$24,568,996. In other words, the revenue secured as a consequence of the efforts of the personnel (never more than 1,900) directed

toward discovering delinquent taxpayers covered approximately 75 per cent of the cost of collecting all internal revenue taxes.

A table showing the present personnel and their salaries will be found in the appendix.

## PART 8. HOUSING

The bureau has been confronted each year with a condition of inadequate working space for its personnel and filing space for the 1,225,000 returns received annually. The space allotted has been almost totally unadapted for the proper functioning of the organization. The personnel of the bureau has been scattered in seven buildings in various parts of the city. Unnecessary movements of returns, papers, and correspondence has resulted and has severely interfered with the welding of a compact organization. A personal contact between officials and employees in the conduct of the work of related organizations was impracticable, and this resulted in much correspondence and loss of time. A chart showing the location of the different buildings housing the activities of the bureau in Washington will be found on the following page. Similar conditions with respect to space were present in a great many of the field offices.

## CHAPTER IV. THE UNITED STATES BOARD OF TAX APPEALS

### PART 1. INTRODUCTION

Prior to the Revenue Act of 1924 the normal procedure in the collection of additional taxes was briefly as follows:

After the field investigations and hearings and conferences with the taxpayer in the field and in Washington, if it was finally determined that the taxpayer owed an additional amount of taxes for any year, the commissioner would assess the tax. The taxpayer had then a choice of two procedures if he disagreed with the determination. He could pay the tax and file a claim for refund. If the claim was denied in whole or in part, he could bring suit in the appropriate court for the recovery of the amount claimed to have been excessively paid. The second or alternative procedure provided that the taxpayer could file a claim in abatement, together with a bond for the amount finally found to be due, in lieu of the immediate payment of the amount assessed. In such case the claim in abatement would be considered by the bureau and a final decision made, and the amount thus finally determined to be due would be collected from the taxpayer.

The Revenue Act of 1924, in order to afford the taxpayer an opportunity for a determination of the additional amount properly due prior to payment, created an agency independent of the Treasury Department, which was designated the United States Board of Tax Appeals. The establishment of the board necessitated the institution of entirely new procedure for the collection of deficiencies in tax. Under this procedure the commissioner now sends a deficiency letter, commonly known as the 60-day letter, upon the final determination of a deficiency. The taxpayer is then given an option. He may pay the amount determined to be due, and, if dissatisfied, may file a claim for refund. If his claim is denied in whole or in part,

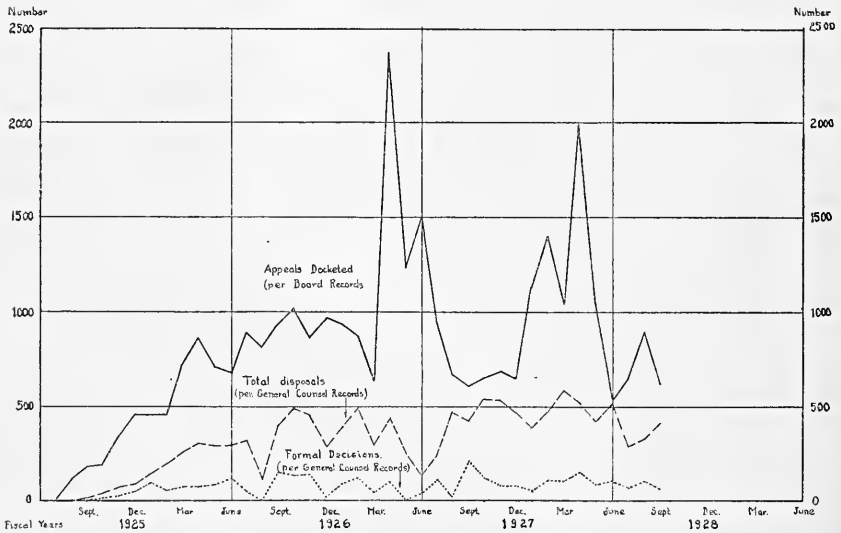




he may then bring suit before an appropriate court for the recovery of any amount in excess of that which he considered due the Government. As an alternative, he may file a petition with the Board of Tax Appeals protesting the proposed assessment. If he files the petition, the tax is not assessed and he is not compelled to make any payment except in accordance with the final decision of the board. The Revenue Act of 1926 provides that the board's decision is a final determination of the amount properly due from the taxpayer. An opportunity for review is afforded either the taxpayer or the commissioner by a circuit court of appeals and, upon certiorari, by the United States Supreme Court.

### BOARD OF TAX APPEALS

Number of Appeals Docketed, Appeals Disposed of, and Decisions Rendered. Monthly, July 1924 - August 1927



## PART 2. CONGESTION BEFORE THE BOARD OF TAX APPEALS

### (1) Accumulation of cases.

On June 30, 1927, there were pending before the Board of Tax Appeals more than 18,000 undecided cases. Roughly, the aggregate amount of deficiencies asserted by the commissioner in these 18,000 cases is \$550,000,000. It has been estimated that the board would be required to devote approximately four years—if no other cases were presented to it—to clear its docket.

### (2) Disposition of future cases.

More than 600 petitions a month are being filed with the board. During September, 1927, the board's highest production month, 418 cases were disposed of. Accordingly, the petitions filed per month exceed petitions disposed of by more than 200 the number of cases

closed in the month during which the board reached the highest point in production.

**(3) Graphic picture of the situation.**

The chart on page 38 shows the number of appeals docketed per month with the Board of Tax Appeals, the total cases disposed of by the board (including formal decisions, dismissals, stipulations, etc.) and the number of formal decisions by the board.

**(4) Relation of deficiency letters mailed to appeals filed.**

The following table shows for each month of 1927 the number of deficiency letters mailed by the bureau and the number of appeals filed. It will be noted that during this year approximately 69 per cent of the deficiency letters were settled without a petition to the Board of Tax Appeals, and petitions were filed with the board in the remaining 31 per cent. It should be borne in mind, in determining any relation between the deficiency letters and the appeals filed, that the approximate proper relation can be obtained only by comparing the number of deficiency letters mailed during a month with the number of appeals filed during the succeeding month. For example, 889 petitions were filed with the board in August. This is directly attributable to the extraordinarily large number of deficiency letters (5,088) mailed during July.

	Number of 60-day letters	Number of appeals filed		Number of 60-day letters	Number of appeals filed
January.....	4,812	1,125	July.....	5,088	645
February.....	4,620	1,408	August.....	2,311	889
March.....	5,422	1,038	September.....	1,767	627
April.....	2,061	1,993			
May.....	1,596	1,050	Total.....	29,850	9,300
June.....	2,173	525			

**CASES DISPOSED OF FROM OCTOBER 1, 1926, TO SEPTEMBER 30, 1927,  
INCLUSIVE**

The following tabulations show the manner in which, according to the records of the office of the general counsel, the 5,300 cases disposed of during the year ended September 30, 1927, were closed and also shows the amount of deficiencies proposed by the commissioner and the amount finally determined by the board:

*Total cases disposed of*

Month	Year	Number of appeals	Deficiencies proposed by the com- missioner	Deficiencies redetermined by the board
October.....	1926	529	\$6,731,994.57	\$4,574,678.16
November.....	1926	528	4,689,628.32	2,565,314.60
December.....	1926	470	5,829,455.16	2,835,741.50
January.....	1927	378	5,361,819.47	2,574,267.31
February.....	1927	450	4,592,203.51	2,562,989.11
March.....	1927	534	5,444,610.29	2,680,709.61
April.....	1927	475	5,548,994.45	2,542,859.80
May.....	1927	421	8,382,132.88	5,448,287.59
June.....	1927	500	6,391,796.18	2,743,901.42
July.....	1927	283	7,316,735.08	3,429,200.37
August.....	1927	316	4,587,623.98	2,388,218.34
September.....	1927	416	7,187,463.02	3,596,261.81
Total.....		5,300	72,064,456.91	37,942,429.62

The following table shows the number of cases included in the above tabulation that were disposed of by the Board of Tax Appeals upon stipulations between the parties without hearings upon the merits of the tax liability:

Month	Year	Number of appeals	Deficiencies proposed by the commissioner	Deficiencies redetermined by the board upon the stipulations
October.....	1926	279	\$3,907,625.22	\$2,566,669.20
November.....	1926	354	3,056,059.43	1,208,214.08
December.....	1926	236	4,159,094.63	1,558,703.00
January.....	1927	196	3,506,119.00	1,256,821.00
February.....	1927	199	2,138,531.92	765,220.00
March.....	1927	272	3,275,644.27	972,049.00
April.....	1927	251	3,564,336.07	853,019.00
May.....	1927	186	3,800,324.65	917,486.00
June.....	1927	202	3,968,484.74	1,529,675.00
July.....	1927	141	4,926,399.25	1,245,141.00
August.....	1927	62	1,455,097.09	513,743.00
September.....	1927	185	2,682,859.07	758,785.00
Total.....		2,563	40,440,575.34	14,145,475.28

The following table shows the number of cases included in the first tabulation under this heading that were disposed of by the Board of Tax Appeals by decisions after hearings upon the merits:

Month	Year	Number of appeals	Deficiencies proposed by the commissioner	Deficiencies determined by the board
October.....	1926	77	\$1,689,520.39	\$873,160.00
November.....	1926	44	673,672.37	397,204.00
December.....	1926	72	910,347.03	517,025.00
January.....	1927	68	1,307,034.16	768,780.00
February.....	1927	76	1,547,740.48	891,838.00
March.....	1927	81	1,040,694.41	580,389.00
April.....	1927	93	1,423,392.58	1,128,575.00
May.....	1927	96	3,926,582.44	3,875,576.00
June.....	1927	132	1,837,817.02	628,732.00
July.....	1927	81	2,280,631.46	2,073,755.00
August.....	1927	125	2,087,066.55	1,829,015.00
September.....	1927	131	3,066,599.14	1,399,822.00
Total.....		1,076	21,790,798.23	13,963,871.00

The following table shows the number of cases included in the first tabulation under this heading that were disposed of by the Board of Tax Appeals by dismissal, without hearings or decisions upon the merits of the tax liability, because of lack of jurisdiction, nonprosecution, failure to perfect appeals, failure to pay filing fee or hearing fees, failure to comply with board orders or upon motion or consent of the parties:

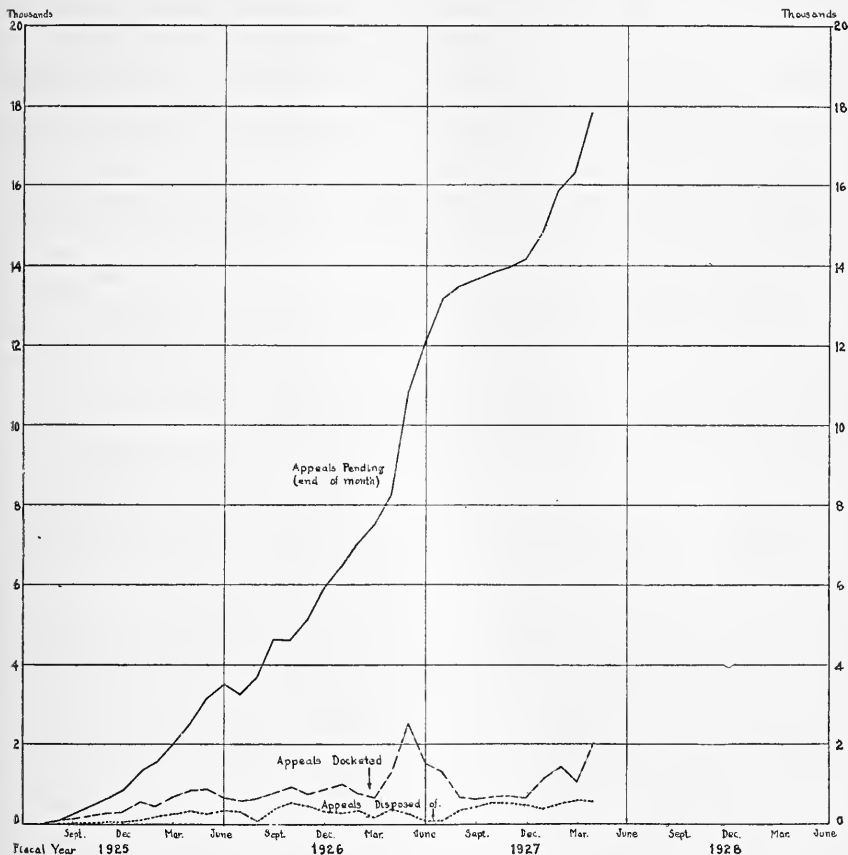
Month	Year	Number of appeals	Deficiencies proposed by the commissioner	Month	Year	Number of appeals	Deficiencies proposed by the commissioner
October.....	1926	173	\$1,134,848.96	May.....	1927	139	\$655,225.59
November.....	1926	130	959,896.52	June.....	1927	166	585,494.42
December.....	1926	162	760,013.50	July.....	1927	61	110,304.37
January.....	1927	114	548,666.31	August.....	1927	129	1,045,460.34
February.....	1927	175	905,931.11	September.....	1927	100	1,437,704.81
March.....	1927	181	1,128,271.61				
April.....	1927	131	561,265.80	Total.....		1,661	9,833,083.34

Chart showing accumulation of cases.

The following chart shows the accumulation of undecided cases before Board of Tax Appeals.

### BOARD OF TAX APPEALS

Number of Appeals Docketed, Disposed of, and Pending  
Monthly, July 1924 -



### PART 3. BRIEF OUTLINE OF IMPORTANT FACTS

(1) The controversies under the excess profits tax acts impose by far the greater burden upon the Board of Tax Appeals. For example: Fifty-three per cent of the tax years involved in cases before the board or under the Revenue Acts 1917 and 1918. Thirty-three per cent are under the Revenue Act of 1921. That is, 86 per cent are under the Revenue Acts of 1917, 1918, and 1921. The provisions of the Revenue Act of 1918 appear 18,472 times, and the provisions of the Revenue Act of 1921 appear 16,042 times in the cases pending before the board.

(2) There has been in the past an extraordinary increase in the number of petitions directly following the expiration of the statute of limitations.

(3) There are 4,795 cases pending involving less than \$1,000 deficiencies.

(4) A very large percentage of the cases involve difficult and technical determinations of fact.

(5) Exclusive of the excess profits tax acts, the provisions of law apparently occasioning the greater number of petitions are (1) the sections relating to allowable deductions; (2) the statutes of limitation; and (3) section 280 of the Revenue Act of 1926.

(6) The Government has been successful in sustaining its deficiencies in only *50 per cent* of the cases involving deficiencies of \$10,000 or more.

A detailed statistical study of the cases before the Board of Tax Appeals, prepared by the office of the general counsel, will be found in the Appendix.

#### PART 4. RESTATEMENT OF PROBLEMS

The problems presented by the present congestion and accumulation may be restated as follows:

(1) Methods must be found by which a much greater number of cases pending before the board may be disposed of; and

(2) Methods must be found by which fewer petitions will be filed with the Board of Tax Appeals.

#### PART 5. DISPOSITION OF PENDING CASES

##### (1) Disposition by the Board of Tax Appeals.

The Treasury Department is of the opinion that the number of formal decisions of the Board of Tax Appeals disposing of pending cases can not be materially increased. The department realizes, of course, that this problem is one solely within the province of the board. However, several suggestions have been made directed toward increasing the board's production. Without discussing in detail the various suggestions, the Treasury Department desires only to assure the Congress that it is willing to cooperate in every possible way and to indorse any program acceptable to the Board of Tax Appeals which, in the opinion of the board, will assist it in the disposition of the cases pending before it.

##### (2) Disposition of cases by stipulation.

It has been stated that tax practitioners find it impossible to enter into stipulations with the office of the general counsel. The statistics show that 1,792 cases have been disposed of by the board upon written stipulations between the taxpayer and the commissioner. Nevertheless a material increase in the number of stipulations will assist substantially in the disposition of the pending cases. Furthermore, an increase in the number of stipulations will permit the board to devote a correspondingly greater period to the disposition of other cases, and also will assist in eliminating otherwise unavoidable delays in the proceedings before the board. If an adequate, efficient personnel can be obtained and maintained for the office of the general counsel, the Treasury is of the opinion that a much larger percentage of the cases can be disposed of by stipulations, either as to the amount of deficiency or as to certain of the facts involved in a particular case.

**(3) Disposition by the special advisory committee.**

The special advisory committee (the organization and functions of which have already been described) is expected to render material assistance in the disposition of cases now pending of the following classes:

(1) Cases involving deficiencies of less than \$1,000 and not involving important principles;

(2) Cases involving difficult or technical questions of fact, such as valuations, rates of depreciation, bad debts, reasonable salaries, etc., but not involving questions of law;

(3) Cases in which the deficiency letters were mailed in order to protect the interests of the Government from the bar of the statute of limitations;

(4) Cases involving administrative policies in which the interests of the Government require a change in the policy in force at the time the deficiency letter was mailed; and

(5) Cases in which the petition was filed by the taxpayer because of a misunderstanding of the position of the bureau.

**PART 6. POSSIBILITIES OF A REDUCTION IN THE FUTURE IN THE NUMBER OF PETITIONS FILED WITH THE BOARD****(a) Review of statistics.**

In so far as the part which the bureau is to play in preventing cases from going to the board is concerned, it is essential at the outset that the proper relation between the closing of cases by the bureau and the cases pending before the board be appreciated. It will be recalled that, in our past experience, only 0.6 per cent of the cases closed by the bureau reach the board; and that approximately 81 per cent of the taxpayers receiving deficiency letters acquiesce and pay without going to the board. Nevertheless, the Treasury should be of substantial assistance in remedying the situation.

**(b) Final closing agreements.**

Section 1106 (b) of the Revenue Act of 1926 (with corresponding provisions in the 1921 and 1924 acts) provides for final agreements in certain cases. Such agreement entered into between the commissioner and the taxpayer is binding upon both parties, and the case is finally closed and disposed of forever, except only in the case of fraud. Under the provisions of this section, however, an agreement can not be entered into until a final determination, assessment and payment has been made. It has been recommended by the Joint Committee that this section be amended to permit the entry of final closing agreements at any of the various points at which final determinations may be made. The Treasury earnestly indorses this recommendation and is confident that a very large percentage of cases will be closed by final agreements if the necessary flexibility is given in the statute.

**(c) Closing of excess-profits tax cases.**

It is recognized generally that the Revenue Acts of 1917, 1918, and 1921 present extraordinarily difficult problems. It is not surprising that a large number of cases arising under these acts have been presented to the Board of Tax Appeals. However, the number of cases involving these acts now pending before the bureau is being reduced

rapidly and this class of cases will be removed within a reasonable period. If final closing agreements are made possible, it is believed that many of the cases still pending in the bureau involving the 1917, 1918, and 1921 acts will never reach the board.

**(d) Better understanding of the law.**

The fact is frequently overlooked that income tax laws and procedure are of very recent origin. It was to be expected that several years would be required before the tremendous number of taxpayers would obtain a reasonable understanding of the requirements of the laws and maintain adequate accounting methods. It is believed that the number of errors on the part of taxpayers attributable to misunderstanding is being decreased appreciably. Corresponding decrease in the deficiencies asserted and the petitions to the board will result.

The provisions of law relating to deductions from gross income, as stated above, are the most controversial and result in the most of the petitions to the board. The Treasury is confident that taxpayers are rapidly reaching a better understanding of the allowable deductions. The sections are receiving final judicial interpretations. The number of petitions attributable to controversies over deductions will decline markedly in the future. The statutes of limitations have occasioned considerable difficulty to the bureau and the taxpayer. These controversies can not continue forever, for the proper interpretation to be given the various statutes of limitations will be decided ultimately by the board and the courts. Section 280 of the Revenue Act of 1926 marks a novel but necessary departure in the prevention of the evasion of taxes by the transfer of assets. The constitutionality of the section has been attacked. It is not surprising that a very large number of petitions involving this section are now pending before the board, and it may reasonably be expected that the number will increase. Final decisions under this section, however, will be forthcoming as soon as the cases can be reached by the board.

**(e) Revision of the deficiency letter.**

It is recognized that many petitions are filed with the board because the taxpayer is unable to understand the true position of the bureau and the determinations giving rise to the assertion of the deficiency. The taxpayer, of course, has received notices from time to time from the bureau from which, with but rare exceptions, he is enabled to determine the bureau's position. Nevertheless, if the 60-day letter embodies a more detailed explanation of the basis for the assertion of the deficiency, the percentage of deficiencies acquired in by the taxpayer will be increased, with a corresponding decrease in the number of petitions filed with the board. The form of deficiency letter has been revised, and a new form will be available for use in the near future.

**(f) Deficiency letters and the statute of limitations.**

The statutes given above, together with the chart of the number of petitions filed with the board, indicate clearly a very substantial increase in the petitions immediately following the expiration of the statutory period of limitations applicable to the particular year. It is true that heretofore the bureau has been forced to send out 60-day letters, in order to prevent a statutory bar to assessment and collection



of the amount properly due, in cases where the taxpayer was unwilling to file a waiver of the statute. It is recognized that undoubtedly in many cases the amount of the deficiency asserted by the bureau in such cases was more than probably would have been determined to be due if the determination had not been hastened by the approaching expiration of the statute. The magnitude of the task confronting the bureau has been pointed out. The interests of the Government had to be protected. Indeed, if the bureau had permitted the statutory period to expire without protecting the Government's interests, it would have subjected itself to severe and proper criticism. With quite the contrary true, the Treasury believes that the bureau is to be complimented on being able to protect the Government's interests.

The present status of the Bureau to-day, however, presents a very different picture from the burden confronting it two, three, or four years ago. The fact that the bureau is practically current for all non-excess profits tax years means that the number of deficiency letters mailed in the future in order to prevent the tolling of the statute of limitations will be negligible.

**(g) Personnel.**

The Treasury is confident that the biggest problem in the administration of the revenue laws now confronting it is the problem of personnel. Unless personnel of the proper caliber can be obtained and unless the experienced and capable personnel now employed by the bureau can be retained, the bureau can not be expected to function smoothly, efficiently, and rapidly. The personnel problem is discussed in detail hereinafter.

**(h) Change in attitude toward settlement of cases.**

The recommendation that tax cases should be settled by *administrative* action, rather than through litigation, and the abandonment of the policy that all cases must be decided upon the basis of absolute accuracy, have been discussed. It is believed that the adoption of these recommendations is vital.

**(i) Further changes in administration.**

Suggested changes for the improvement and simplification of the administration are being studied constantly. It is believed that those already adopted, which have been discussed in detail hereinbefore, have contributed substantially to the present condition of the administrative work of the bureau. Undoubtedly, further changes will be adopted as consideration and experimentation proves them feasible.

One very important step toward simplification is now being made, for example, in depreciation studies, conducted in cooperation with basic industries. As a result of the studies, and whenever practicable, maximum and minimum depreciation rates will be established. Any taxpayer may in the future claim a deduction for depreciation within the rates so prescribed and the deduction will be allowed by the commissioner. If he claims a depreciation rate, however, the burden will be upon him to prove the propriety of the allowance.

It is appreciated fully that production in the bureau is not the ultimate goal. Production must be accompanied by quality of the work. Efficiency ratings of the personnel must continue to be based upon the character of work, as well as upon the amount of work, performed.

(j) **The special advisory committee.**

The special advisory committee should be able to render material assistance in the reduction in the volume of petitions filed with the Board of Tax Appeals in the future. For example, its advice may be sought prior to the mailing of the deficiency letter upon important questions of policy, with better determinations of deficiencies resulting, and taxpayers who have received deficiency letters will, in proper cases, have access to it in order to effect a proper settlement without the necessity of filing petitions.

The committee has not been operating during a sufficient period of time to permit an accurate prediction based upon its production record. The final settlements effected by it (averaging about 260 a month) have resulted in a rather substantial reduction in the number of petitions which would otherwise have required decisions by the board. As its experience and personnel permits effective functioning, the number of cases finally settled without action by the board should approximate 500 a month.

## CHAPTER V. OFFICE OF THE GENERAL COUNSEL

The foregoing analysis of the condition of work in the bureau shows that marked progress has been made in the disposition of cases. The Bureau of Internal Revenue, as stated above, is practically current in its work at the present time.

The pressing problem of the Bureau of Internal Revenue several years ago was in the Income Tax Unit. It is now in the office of the general counsel.

This is due to the fact that about 19,000 cases are pending before the Board of Tax Appeals, and the general counsel's office must defend the bureau's position before that tribunal.

The problem existing in the general counsel's office can be understood and appreciated only with a thorough knowledge of the tremendous volume of work pending in the office as related to the personnel, the complexities and difficulties of the cases, and the amount of work and time which a single case may require. Such a thorough analysis of the work of the general counsel's office is absolutely necessary before any recommendations toward remedying the situation can be made.

In the following pages a detailed analysis is made of the work of each division as a whole, of the work of some of the attorneys for one month, and of specific cases.

### THE GENERAL COUNSEL

The activities of the general counsel's office may be said to embrace the whole field of Federal taxation in connection with cases in suit (criminal and civil); appeals to the Board of Tax Appeals; income and profits tax cases specially referred by the commissioner on appeal or otherwise; cases of a similar character received directly from the Income Tax Unit; estate, capital stock, and sales tax questions; documentary, public utilities, insurance, occupational, beverage, luxury, tobacco, oleomargarine, and special taxes; accounts, supplies, and equipment; and the consideration, preparation, and revision of

Treasury decisions and regulations, mimeographs, and other formal compilations.

The office is divided into six divisions, viz, Interpretative I, Interpretative II, penal, civil, appeals, and administrative.

The only income and profits tax cases required by existing procedure to be referred to the office of the general counsel by the Income Tax Unit for review on protests by taxpayers prior to final determination of deficiencies are those involving proposed assertions of penalties. Cases are referred by the Income Tax Unit to the office of the general counsel, however, without restriction if the consideration or opinion of the office is desired. Cases involving net refunds of \$50,000 or more and all cases involving proposed allowances including interest for any year or years aggregating \$75,000 where there is a net refund in any amount are referred to the office of the general counsel for review. In respect of cases involving an allowance of \$75,000 or more, the office of the general counsel prepares a statement of fact to be submitted to the Joint Committee on Internal Revenue Taxation. All compromise cases and all cases in which claims are filed by collectors in bankruptcy and receivership proceedings and claims against the estates of insolvent persons are referred to the office of the general counsel.

Representatives of the office of the general counsel are assigned to the various audit divisions of the Income Tax Unit and are at hand to advise promptly in matters covered by established precedents; where there is any doubt as to the law in any particular case or where a new proposition of law is advanced, the question is referred to the general counsel for decision.

The office is the commissioner's representative in all proceedings before the Board of Tax Appeals. When an appeal is filed with the board a copy of the petition is served upon the general counsel, who then makes a requisition upon the Income Tax Unit for the administrative file and thereafter handles the appealed case to a conclusion before the board.

In cooperation with the Department of Justice the general counsel handles all civil internal revenue cases in the Federal courts. The cases include the prosecution of suits by the United States to recover unpaid taxes and the defense of suits brought by taxpayers against collectors of internal revenue or the United States to recover taxes alleged to have been erroneously collected, and appeals to the circuit courts of appeals or to the Court of Appeals of the District of Columbia from decisions of the Board of Tax Appeals. The office also prepares indictments and assists in the prosecution of criminal cases arising under the income tax laws.

### INTERPRETATIVE DIVISION I

This division considers questions relating to the income and excess-profits tax provisions of the several revenue acts as well as those questions of procedure (particularly in connection with liens and distrainments) which arise in connection with the administration of the internal revenue laws. It also passes finally upon all rulings proposed for publication in the weekly Internal Revenue Bulletin.

In general practice specific questions are submitted for opinion by other branches of the Bureau of Internal Revenue. Letters, proposed mimeographs, and memoranda prepared elsewhere in the bureau are often submitted for review and comment. While it is impossible to give in detail a summary of the many classes of questions considered during the fiscal year ended June 30, 1927, it may be said among the most important have been with reference to amortization, bases for determining gains and losses in particular cases, depletion and depreciation, distinction between associations and trusts and associations and partnerships, credits and refunds and interest thereon, installment and deferred payment sales, status of requisition charters under act of June 15, 1917, and Executive order of July 11, 1917, invested capital, capital net gains, compensation to State officers or employees, deductibility of various forms of State and local taxes, donations, development of practice under section 280 of the revenue act of 1926 and limitations thereunder as to assessment of transferees, execution of waivers by fiduciaries, placing and releasing of liens for internal-revenue taxes, waivers for assessment and collection, right of dower as exempt from Government's claim for tax against deceased spouse, liability to distraint of tenancies by the entirety, and limitations, particularly with reference to assessment and collection in the light of the decision of the Supreme Court of the United States in the case of New York and Albany Lighterage Co. et al. *v.* Bowers, 273 U. S. 346.

On June 30, 1927, there were pending in the interpretative and penal divisions of the office 808 income and profits tax cases, involving 1,840 tax years, including claims, but exclusive of bankruptcy and receivership cases, insolvent, interest, and delinquency penalty compromise cases. The appeals division was charged with 18,481 appeals to the Board of Tax Appeals, covering approximately 32,000 tax years and 48 appeals to the circuit courts. The civil division was charged with 2,282 cases in suit and 255 cases for suit involving approximately 4,323 tax years.

The cases pending before the division June 30, 1927, were classified by years and amounts as follows:

	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	Total
\$100 or less.....	1			1					2		4
\$101 to \$500.....		1	2	1	3	5	4	4	3		21
\$501 to \$1,000.....	4	1	1	1		1	1	2			8
\$1,001 to \$10,000.....	10	13	8	8	9	6	10	5	1	1	63
\$10,001 to \$50,000.....	6	11	6	10	11	18	23	10	1		88
\$50,001 and over.....	9	14	20	17	12	17	16	15	6		118
Total.....	30	39	36	38	35	49	54	36	14	1	330

Actual number of jacketed cases represented in the above compilation..... 191  
 To which jacketed cases questions of administrative law should be added to the number of..... 125

Making the total of jacketed cases on hand June 30, 1927..... 316

The following comparative figures indicate the volume of work (without regard to tax years) handled by the division during the past three years:

	Fiscal years		
	1925	1926	1927
Cases on hand July 1.....	85	236	317
Cases received during year.....	1, 480	894	1, 623
Cases to be accounted for.....	1, 565	1, 130	1, 940
Cases disposed of during year.....	1, 329	813	1, 624
Cases remaining June 30.....	236	317	316

As illustrative of the activities of the division reports on typical cases have been obtained from three of the attorneys in the division.

#### ATTORNEY A

This report shows the various issues and the difficulties encountered in five of the cases considered and disposed of by me in and about the month of June, 1927.

*Case I.*—Issue: What portion of British income taxes, supertaxes, and taxes withheld at the source paid by a British subject in Great Britain during a British financial year (where part of those taxes are paid by reason of income from United States sources) are deductible under United States revenue laws in computing the British subject's net taxable United States income where he files his United States return on (a) a calendar-year basis and (b), a fiscal-year basis?

The British income-tax system is materially different from the American system, and the answer to the foregoing question required an extensive study of the British system (viz, the British income tax act of 1918 and the succeeding annual finance acts, 1919 to 1926, inclusive); tax cases adjudicated by the British courts; and taxpayers' conferences.

*Case II.*—Issues: (1) The income-tax status of sums of money (a) realized from the seizure and sale of enemy-owned assets by the Alien Property Custodian and converted into the United States Treasury, and (b) impounded and converted into the United States Treasury under licensing agreements granted under the authority of the trading with the enemy act, passed October 6, 1917, as amended from time to time; and (2) what portions of the foregoing sums of money were taxable as income, to whom taxable, and for what years taxable.

The disposition of this case required a careful study of foreign forms of organization and of doing business; and of foreign laws relative to the devolution of property. It required an intensive study of the provisions of the trading with the enemy act of October 6, 1917, together with its numerous amendments; examination of Supreme Court decisions and of various court records; and conferences with the taxpayers' representatives, the Alien Property Custodian's office, the Department of Justice, and the United States Treasurer's office. The facts were inadequate, and it was necessary to assemble them and to piece them together from a great variety of sources.

The determination of issue (2) involved a study of the income tax and estate tax provisions of the revenue acts of 1916, 1917, 1918,

1921, and 1924 as applied to or affecting the M Company and its members and their successors and descendants abroad; and of the income-tax provisions of the same acts, together with the trading with the enemy act, as affecting the Alien Property Custodian.

Because the field to be covered was broad and in some respects uncharted, particular care had to be taken to make the framework on which the conclusions were reached in this case sufficiently elastic not to preclude the independent consideration and determination of different issues on different facts and on different sections of the revenue laws arising within the general field of "Alien Property Custodian" cases, and yet it was necessary to obtain a perspective of this field and, in so far as was possible, to anticipate the nature of questions which might arise thereunder.

*Case III. Issue:* Whether a dower interest in lands in the Territory of Alaska has priority over a Federal tax claim.

The decision in this case involved an examination of the lien and priority provisions of the United States Revised Statutes and an examination of Supreme Court cases; a study of the laws of the Territory of Alaska and of the State of Oregon; and a careful analysis of decisions made by the courts of Alaska and of Oregon.

*Case IV. Issues:* (1) Whether a sum of  $x$  dollars in cash paid to the taxpayer by the United States Y Department in 1919 in connection with the taxpayer's adoption of a conservation program with respect to a gas field for the benefit of the Y Department constituted capital or taxable income for 1919 to the taxpayer; (2) if income, whether it was all income for the year 1919 or was proratable over the life of the contract; and (3) the effect of certain recitals in a preliminary memorandum.

The disposition of this case required a careful analysis of the involved provisions of an information memorandum and a final contract, including the obtaining of information from the Y Department, development of technical knowledge, and taxpayers' and accounting conferences. It required consideration and determination of the applicability of such legal theories of treatment as (a) constructive seizure of property and replacement, (b) subsidy, and (c) contribution to capital account, together with a study of distinctions in Supreme Court cases and the effect of various provisions of the revenue laws.

*Case V. Issues:* (1) In what year a sale of assets, dependent upon the acquisition under one control of many conflicting interests, occurred in a legal sense; (2) whether the transaction was taxable; (3) whether the statute of limitations applied; and (4) the effect of court decisions.

This case required the acquisition of an accurate knowledge of the settlement, development, and consolidation of Z territory, since it was the acts of certain companies and individuals in effecting a combination of conflicting interests of long standing, which gave rise to the issues mentioned.

The disposition of the case involved an examination of a great many papers and close study of various memoranda, agreements, contracts, corporate resolutions, stockholders' notices, escrow arrangements, the legal effect of purported exchanges of stock, etc., together with numerous conferences.

During the month attention was also given to the case of the N Company, a foreign corporation. The development and disposition of this case required covering in detail the broad field of what constitutes income from sources within the United States and income from sources without the United States (a) in the case of property "produced" without the United States and sold within the United States, and (b) in the case of property "purchased" without the United States and sold within the United States, under the various provisions of the revenue acts of 1913, 1916, 1917, 1918, 1921, 1924, and 1926. Examination of many contracts, of bureau and Attorney General rulings, and of court decisions was necessary.

Some work was also done on the case of the O Company. The question at issue concerned the deduction properly allowable to the taxpayer under certain provisions of the revenue laws authorizing a deduction in the case of insurance companies of the net addition required by law to be made within the taxable year to reserve funds. The disposition of the case involved a study of State insurance requirements, laws, and decisions; of technical insurance and accounting principles; and of the relationship of all of the foregoing to applicable provisions of the revenue laws.

Major issues awaiting determination in pending cases are:

Certain aspects of the subject of the basis of depletion of oil properties under various revenue acts, with relation to regulations and court decisions.

Whether the reinsurance by one casualty company of its risks with a second casualty company in consideration for which the second company received the net assets of the first company is such a consolidation, merger, or reorganization as is contemplated in section 203 (h) (1), Revenue of 1926, and whether such assets shall be included in the gross income of the second company.

Whether payments under certain annuity contracts are all income or are all a return of cost; and if neither, then what portion constitutes taxable income until the cost is restored; and under what circumstances the entire payment will constitute taxable income.

Whether or not under particular facts the distribution to stockholders of the stock of a new corporation which acquires the property of the old corporation represents a nontaxable distribution of stock received in a reorganization transaction.

Whether a certain contract and the acts carried out in consummation of the contract, constitute a sale of the capital stock of a company or a sale of its assets with relation to matters of invested capital, good will, appreciation of values, and gain or loss on sale of capital assets.

Whether or not a partnership between a husband and wife, actually carried on as such, is in view of particular State laws a partnership within the meaning of the income tax law permitting the filing of separate returns by the members thereof.

Taxability of profits realized upon the liquidation of subsidiaries.

Whether or not a real-estate subdivision contract, in view of the method of performing it, constitutes a conditional contract to sell, a sale, or is a selling agency agreement and the resulting tax liabilities.

Whether the organization expenses of a taxpayer corporation are deductible from its gross income in the taxable year in which it was merged with another similar corporation in accordance with certain State laws.

What constitutes the creation of a valid trust of corporate securities; legal effect of a surrender of interests in the alleged trust and of a sale followed by repossession of the securities after part payment: method and time of returning for taxation any profit realized under the gain or loss provisions of the revenue laws covering sales and exchanges of stock or property.

What in the X case constitutes taxable gain upon the receipt of liquidating dividends. When does a contract to sell stock become a completed transaction and the income taxable. Whether the liquidating corporation receives taxable income, and, if so, who is responsible for the tax.

The nature of a contract covering the conservation and sale of a natural resource, and the ensuing rights.

Taxability of gain upon the sale of devised property held in trust for beneficiaries and to whom taxable. Construction of will and of State laws.

Whether or not a reorganization of banks occurred under provisions of the Revenue Act of 1926 under which no gain or loss is recognized for income-tax purposes, or whether an outright sale occurred which resulted in the taxpayer receiving a liquidating dividend.

Whether an agreement vesting certain rights in an oil company with respect to the property of a second oil company constitutes a sale or a sublease; and if the latter, did the second company retain such an interest as would form the basis for a depletion allowance.

Matter of insurance reserves; what constitutes a legal addition to such reserves for tax purposes, and the deduction allowable under the revenue laws from gross income on account of additions to such reserves.

Matter of computing profits realized upon the maturity of insurance policies.

Amount of depreciation allowable in the light of (a) retirement reserves set up on the books of the X Public Utility Co. and (b) charges to operating expenses.

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#### ATTORNEY B

The following report covers a period of one month. The issues involved in the principal cases disposed of during that month and the difficulties encountered are as follows:

*Case I.*—Issues: 1. Whether the X Company is a limited partnership under laws of State of Y.

2. If a limited partnership, is it to be treated as a partnership or a corporation for income-tax purposes?

3. If a partnership, are the profits derived from the operation of its business in the United States subject to withholding in the case of the two nonresident alien members of the partnership and is the partnership required to file Form 1042 with respect to the profits of such members?

4. Are the salaries authorized by the partnership agreement to be paid to the nonresident alien members for services performed in foreign countries subject to income tax?

5. Are the profits of a domestic partnership from sources without the United States subject to tax in the hands of the nonresident



members thereof? In other words, are the gains and profits of the partnership to be treated as if they were received directly by the members?

6. Were the United States or the foreign countries the source of the profits made on the sale of cotton to foreign customers?

7. What are the criteria for determining the source of income derived from the sale of goods purchased in one country and sold to customers in another country?

8. Under the terms of the contracts of sale did the "sale" of the cotton take place in the United States or in the foreign country?

9. Is the method employed by the partnership of prorating the profits on the basis of bales sold to customers without the United States to total bales sold correct?

In determining the first issue it was necessary to examine the Y statutes on limited partnerships and decide whether the partnership agreement entered into created a limited partnership under Y law. Issue 2 required a decision as to whether Y limited partnerships are of the type described in article 1505 and treated as partnerships or of the type described in article 1506 and taxed as corporations.

Having reached the conclusion that the company was a limited partnership under Y laws of the type described in article 1505 and to be treated as a partnership, it was necessary to determine whether the partnership profits belonging to the nonresident alien members were of the type of income subject to withholding under section 221 and whether the partnership was liable for a return on Form 1042. There were no previous rulings passing directly on this question, and it was necessary to examine all the rulings made with respect to the type of income from which withholding is required and all the rulings with respect to the persons who are required to withhold.

A prior ruling covered the question involved in issue 4.

The answer to issue 5 raised the question as to whether the items received by the partnership lost their identity when passing through the hands of the partnership to the credit of the partners in the form of partnership profits. This question required consideration of court decisions involving the interpretation of the Revenue Act as it relates to partnerships and also the prior rulings of the office which had a bearing on the question.

Having determined that the gains and profits of the partnership are to be treated for income-tax purposes as if they were received directly by the members, it was necessary to determine whether the profits made on the sale of the cotton to foreign customers were from sources within the United States or from sources within foreign countries. In deciding this question all of the rulings which have been made by this office since the incorporation of section 217 into the Revenue Acts were referred to in order to determine what criteria are to govern in determining the source of income derived from the sale of property purchased in one country and sold to persons in another country. It was then necessary to look to the contracts under which the cotton was sold by the partnership and decide whether under the terms of sale the cotton was sold in the United States. This question involved a thorough study of a large portion of the law of sales, and in the course of such study reference was made to the definitions of trade terms used in international sales

prepared by the International Chamber of Commerce and the American foreign trade definitions as adopted by a committee formed of representatives from the leading export associations of the country, which definitions are accepted by bankers who finance exports. The decision of the eighth issue made it unnecessary to pass on the ninth issue.

*Case II.*—Issues: 1. The principal issue was whether certain income received by the decedent in the years 1922, 1923, and 1924, to the date of his death, was received in his individual capacity or as a trustee of a college which he has incorporated.

2. The income in question was received as rentals for machines invented by the decedent and leased under very definite leasing contracts. Oral representations were claimed to have been made by the decedent which resulted in the rents being received from date of such representations as a trustee for the college. This raised the question as to whether a written contract could be altered by oral representations.

3. The omission of the income from the decedent's returns was discovered more than a year after his death and after a consent decree had been entered in suits brought by beneficiaries under the will and the college. The decree determined that the property which yielded the income in 1922, 1923, and 1924 was college property and that the income was college income. This raised a further issue as to what effect or force the consent decree has on the Federal Government in determining the income-tax liability of the decedent for the years in question.

4. A further issue was the date on which certain property was given to the school by taxpayer.

The main difficulty in this case was getting the facts. The file was so voluminous that it required more than one week to read it. The revenue agent had submitted five or six reports and copies of depositions taken during the litigation and a copy of the agreement entered into between the litigants which formed the basis for the consent decree, as well as copies of other documents which he considered to have a bearing on the case. The attorneys for the taxpayer submitted a very lengthy brief and exhibits of many kinds, including copies of the complaint in the suit and of the decree.

After reading through the file the next difficulty was to sift down and bring together in proper sequence all the facts which seemed to have a bearing on the question submitted and check them up by comparing the revenue agent's versions with that of the attorneys for the taxpayer and also by checking up with the facts as disclosed by the estate tax file.

This having been done, the first legal proposition considered was the force of the consent decree on the Government, who was not a party to the suit.

The next problem was to determine the relation of the parties under the contracts and the character of the payments made. In construing the contracts the statutes of the State of Y were consulted to see whether there was anything in such statutes which would have a bearing on the correct determination of the question.

The next problem was to determine whether the oral representations claimed to have been made amounted to an assignment of the contracts and his rights thereunder or changed his character in any

way so that he thereafter received the amounts as a trustee for the college. This involved the question as to when the terms of written contracts can be altered by parol agreements, which in turn raised the question of consideration.

Since the attorneys for the taxpayer claimed that a trust was created, it was necessary to determine when and how a person can make himself a trustee, and whether the taxpayer had made himself a trustee of the college and received the rentals under the leasing contracts in such capacity.

Another problem was to determine what effect the method of handling the funds by the taxpayer had on the question.

*Case III.*—Issue: When is real property acquired by inheritance within the meaning of section 204 (a) (5) of the Revenue Act of 1924?

The decedent, mother of taxpayer, acquired real property in Y in 1913 and died in 1914. Two wills were successively offered for probate but were contested by the taxpayer, the only child and heir, on the ground that her mother was not mentally capacitated at the time she executed the will. A jury in each case found the decedent not mentally capacitated at the time of execution of the will. The last judgment was rendered in May, 1918, the effect of which was that the decedent died intestate and the taxpayer as her sole heir inherited the real estate in question. The property was in the hands of a collector *ad colligendum* during litigation of the wills and was given into the possession of the taxpayer when the last judgment was rendered.

The property was sold in 1924 and the taxpayer claimed that the basis to be used in determining the profit was the value as of May, 1918, the date of the last judgment, the contention being that the property was acquired at the time the last judgment was rendered and the property given into her physical possession. The taxpayer cited a Board of Tax Appeals decision and a Court of Claims decision, both involving personal property, as being authority for using the date the property came into possession of the taxpayer as date of acquisition rather than the date of death of the decedent. The taxpayer also quoted certain sections of the code of Y which were considered to have a bearing on the case.

It was necessary to show what provisions of the code of Y affected the question and to establish the time of vesting of a fee simple title in real estate by inheritance both at common law and under the code of Y.

*Case IV.* Issue: Deductibility of attorneys' fees, expenses, and court costs expended by a nonresident alien in securing the return of money belonging to such alien and which was wrongfully held by a domestic corporation.

Through a chain of assignments, the balance due a nonresident alien as his share in a venture undertaken in 1913 and 1914 came into the possession of a domestic corporation some time in 1918. No part of this amount was income from United States sources. Of the balance which it received in 1918, the domestic corporation voluntarily paid to the nonresident alien 24 x dollars. Payment of the balance was refused and the alien brought an equity action against the domestic corporation in the Supreme Court of the State of New York, the result of which was that the domestic corporation was

ordered to return the balance of 73 x dollars and as a penalty against the defendant, interest of 35 x dollars and costs, making the total decree 109 x dollars. The total expenses in recovering this sum were 57 x dollars, being attorneys' fees, investigators' fees, traveling expenses, miscellaneous expenses, court costs, depositions, etc. The attorneys' fees and costs were more than the interest received. It had been previously ruled that the interest awarded in the decree was income from sources within the United States and subject to tax.

The problem presented by this case is this: Should the attorneys' fees and costs be met first out of the interest awarded as a penalty or treated as the cost of recovering principal and interest or of recovering only principal. This required a study and classification of all the rulings made with respect to the deductibility of attorneys' fees and court costs. From this study it was determined how the attorneys' fees and expenses should be treated.

*Case V.* Issue: Whether the personal money allowance authorized by statute to be paid to a rear admiral who is serving as admiral is compensation for the additional duties and subject to tax or whether it is an allowance and exempt from tax under the ruling laid down in the Clifford-Jones decision (60 Ct. Cl. 562).

The taxpayer argued that the increased pay was to compensate for the additional duties and that the personal money allowance was to cover the cost of the official entertaining which is an incident of the office of admiral.

The Clifford-Jones decision held that the value of quarters and the money allowance for rent of quarters authorized by section 6 of the act of June 10, 1922, to be paid to Army officers were allowances and not income. The language in this decision in some portions would indicate that the Court of Claims intended to hold that all allowances are exempt from tax.

The bureau had held that the subsistence allowance for officers authorized by section 5 and the per diem allowance in lieu of subsistence when traveling on official business and away from the post of duty, authorized by section 12 are allowances and not subject to tax.

On the other side of the question there was a ruling that the "post allowances" paid to ambassadors and ministers is additional compensation and subject to tax, in view of the fact that the act authorizing the post allowances designates such allowances as additional compensation.

Major issues in cases awaiting determination are:

(1) Whether the manner in which business is done by a foreign corporation having no office or place of business in the United States results in taxable income from sources within the United States.

(2) Is the method described in General Counsel's Memorandum 1387 (Bulletin VI-14, 3), of handling deferred payment sales of personal property not on the installment plan applicable to deferred payment sales of real estate not on the installment plan where the purchaser's promise to pay is represented only by a contract of sale, there being no notes or other obligations of the purchaser?

(3) Who is to be deemed the responsible agent of a nonresident alien for the purpose of filing returns for such alien within the meaning of article 404?

(4) When are the amounts received by an author for his writing earned income and when unearned income?

(5) Method of determination of the rental value of a building occupied by a life-insurance company and the deductions allowable in connection therewith.

(6) Method of computing the credit allowable in the case of an American corporation having a British subsidiary, the question being whether the tax on the dividends received is a tax on the American corporation which is a credit under section 238 (a) or a credit under section 238 (e).

(7) Several cases involve the question of the credit for taxes paid to foreign countries.

(8) Whether a net loss sustained by a corporation before affiliation can be deducted from the consolidated net income after affiliation under the Revenue Act of 1921. The corporation which sustained a net loss was not responsible for any part of the consolidated net income.

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### ATTORNEY C

As requested, I have prepared the following report which covers the month of June, 1927, and shows in respect to the principal cases disposed of during the month, the various issues involved, and the difficulties encountered in disposing of the cases:

*Case I.*—Issues: This case was submitted by the Income Tax Unit for opinion on two questions: (1) Does the decision of the Board of Tax Appeals (appeal of Leah Brunt, administratrix, 5 B. T. A. 134) in regard to the taxability of the income of the Osage Indians affect T. D. 3754, which states that income received by the Quapaw Indians from restricted lands is not taxable? (2) What is the basis for depletion available to the individual Indian allottees of Quapaw lands whose incomes subsequent to September 26, 1921, are taxable owing to the removal of restrictions?

The difficulties involved in this case lay in a conflict of views concerning the taxation of Indian income and the necessity of a determination of policy between this office and the Department of Justice. These cases have also been strenuously contested before this office by private counsel retained on behalf of the Indians.

*Case II.*—Issue: This was a request for an opinion on the effect of the decision of the Board of Tax Appeals in the Brunt case, 5 B. T. A. 134, on procedure in estate-tax cases, particularly as to effect on the ruling of the Attorney General, March 15, 1924, 34 Ops. A. G. 275, published as T. D. 3570 (C. B. III-1, 85). The latter ruling pertained to income taxation only and held that income received by members of Five Civilized Tribes from lands exempted from taxation for a period of years is not subject to the income tax laws. Though the practice has not been general, it seems some estate-tax cases involving estates of members of the Five Civilized Tribes have been audited as nontaxable under T. D. 3570 and the request was for instructions whether such cases should be reopened and the estate tax asserted.

The Brunt case also pertains to income taxation only. The only relation of these cases to the estate tax is the question whether Indians under control of the Federal Government are within the internal revenue acts without specific mention therein.

Case has been subject in its disposition to the determination of policy between this office and Department of Justice as to handling of Indian cases. A number of conferences have also been necessary between members of this office as to exact ground on which the position of the bureau should be placed.

*Case III.*—Issue: The taxpayer is a member of the Quapaw Tribe of Indians. Under the opinion of the Attorney General of March 20, 1925, T. D. 3754 (C. B. IV-2, 37), income received by taxpayer from her allotment of land of Quapaw lands prior to September 26, 1921, has not been taxed on account of restrictions on alienation. On the date mentioned restrictions were removed and her income became taxable. The question arose as to the basis for deductions from gross income, on account of lead and zinc operations. Case considered along with general case first above discussed. It was claimed that the basic date of valuation for depletion deductions was the date on which the restrictions were removed and not March 1, 1913, as in the case of other mineral properties acquired prior to the latter date.

The difficulties involved in this case in its disposition were similar to those indicated in the Indian cases discussed immediately above, because the question was tied up generally with the theory to be adopted on the taxation of Indian income.

*Case IV.*—Issue: This case involved a request for reconsideration of the rejection of a claim for refund for 1918 based upon a claim for special assessment of profits taxes under sections 327 and 328 of the Revenue Act of 1918. Abnormality in invested capital was claimed, resulting in hardship as compared with the tax paid by representative concerns similarly situated. Such abnormality was alleged to consist of a substantial asset in good will acquired in 1918 from a predecessor partnership not capitalized on the corporate books.

*Case V.*—Issue: Taxpayer is an incompetent adult of one-half Creek Indian blood, the owner of homestead and surplus allotments of land derived from the Creek Tribe. Question as to taxability during years 1916 and 1921 of income from surplus.

On removal of restrictions by act of May 27, 1908, from the lands of Indians of given degrees of Indian blood, it provided that minors included within the class thus freed should be placed under the jurisdiction of the probate courts of Oklahoma and the duty was imposed on Federal agents to investigate administration of the estates of such minors and to maintain general surveillance. The probate courts would not approve conveyances of lands of such unrestricted minors without consent of Federal agents. It was contended that this represented a continued restriction on the alienation of the lands of such minors, the probate courts being substituted as a Federal agency. Taxpayer was a minor of the class mentioned, did not reach his majority until about 1916, but being mentally defective continued within the charge of the probate courts. The act of 1908 made no provision for Federal action in administration of estates of unrestricted adult incompetent Indians, but it was contended that such continued jurisdiction of the probate courts represents a restriction on alienation in the Federal sense both during taxpayer's minority and thereafter, rendering surplus allotment free from taxation.

The estate of A is partially under the control of the Federal Government through the Interior Department by reason of restrictions on alienation of homestead allotment, which do not affect the surplus allotment. Nevertheless, it was argued strenuously that because the taxpayer for one purpose comes within the restricted class he should be considered a restricted Indian for all purposes of taxation, since the partial control indicated of necessity affects the whole administration of his estate. View pressed upon this office at various times both before and after the receipt of this case, and it is understood steps have been or are being taken through Interior Department to submit matter to Attorney General.

*Case VI.*—Issues: An opinion was requested concerning (1) the right of the M Company to capitalize certain operating deficits incurred while the company was developing a new product and a market therefor, and (2) the cash value of intangibles acquired by the taxpayer from its predecessor, the N Company.

The principal issue was the right to capitalize the operating deficits. It involved an examination of the history of the development, production, and marketing of a certain article by the taxpayer. Activity first arose in 1911, when A and B conceived the idea of developing commercial product out of a certain commodity then considered waste material of no commercial value, conducted experiments and operated with net losses, 1913 to 1917, inclusive, the amount of which was charged to a development account. Taxpayer claimed all of such losses should be capitalized and included in invested capital. Required a considerable study to determine when purely experimental and development work of the company ended.

Difficulties consisted largely of proper analysis of the various facts presented, including a study of the accounts and returns of the taxpayer from 1913 to 1918, extending over three days.

*Case VII.*—Issue: This case involved the taxability for 1917 to 1922, inclusive, of oil royalties derived from a homestead allotment received from the Creek Nation of Indians originally allotted to the father of taxpayer, A, by deed dated August 25, 1902. The deed was issued to the original allottee under authority of the acts of Congress of March 1, 1901 (31 Stat. 861), and June 30, 1902 (32 Stat. 500), containing the provision that the homestead allotment of each Creek citizen should be nontaxable, inalienable, and free from any encumbrance whatever for 21 years from the date of deed. A died in 1915 and a three-fourths interest in homestead allotment passed to his infant son. The question was whether the exempt status of the homestead allotment continued into hands of son to extent of his interest.

*Case VIII.*—Issue: The question was, What is the basis for determining gain or loss on sales of stock in 1922 and 1923? Taxpayer in 1918 executed a declaration of trust in favor of the X Hospital, covering  $y$  shares of the common stock of the M Company, with directions to pay gains and income to the X hospital to the amount of  $x$  dollars, whereupon the principal and any income remaining was to be returned to the settlor. Trust terminated January —, 1922, and the original shares were returned to the taxpayer with additional shares received as stock dividends. The question was whether the basis for determining gain or loss on sales in 1922 and 1923 is cost to

the taxpayer of the original  $y$  shares, or whether such cost should be reduced on the creation of trust, or whether a revaluation should be made on termination of trust.

*Case IX.*—Issue: Question involved, claim of the taxpayer to an addition to invested capital as of September, 1916, of  $75x$  dollars by way of paid-in surplus.

Company was organized in 1914; capital stock,  $y$  shares; par value of  $10x$  dollars; issued to the A family for certain coal-mining properties. In 1916 a group of individuals purchased the stock from the A family. In the negotiations the purchasers were of the impression that the properties of company included certain coal lands which were found to be owned individually. Thereupon the properties individually owned were conveyed to the corporation, subject to a mortgage from the corporation for the purchase price of  $95x$  dollars. The group then purchased the stock of the company for  $20x$  dollars and agreed to see to it that payment would be made by the company for properties conveyed to it. It was contended that the individually owned properties were in fact sold to the purchasers of the stock; that mortgage from the company was merely security for the primary obligation of such purchasers, who turned such properties into the company without consideration for which paid-in surplus should be allowed.

The case necessitated the construction of a loosely worded contract.

*Case X.*—Issues: The M Company is a domestic company, the stock of which is owned by a foreign corporation, the N Company. All stock of latter company is in turn owned by the — Government. The M Company is a selling agency in the United States of the N Company. The N Company consigns fur skins to the M Company for sale in the United States which are sold at public auction. Gross proceeds derived therefrom are remitted to the N Company, less a commission of — per cent. The sole business of the M Company is selling goods consigned by the N Company. The M Company's profit, if any, comes out of the — per cent of the proceeds mentioned. The M Company also has agreement with the — Government whereby export licenses are granted under which the M Company turns over to the — Government a percentage of the net profits.

Question raised whether the remittance of — per cent of gross proceeds to the N Company should be subjected by the United States to its income tax. Also whether the percentage of net profits paid to the — Government represents a license tax deductible by the M Company from gross income.

The major issues involved in the cases now on hand may briefly be stated as follows:

Whether the statute of limitations on the filing of claims for refund should be pleaded against non-Indian heirs or next of kin of a minor Creek Indian on whose behalf income taxes were paid on income derived from tax-exempt homestead lands.

Revision of closing inventory December 31, 1919, to permit the inclusion of the value of certain articles to which it is claimed title passed to taxpayer during the year 1919 though goods were not delivered until 1920.

Taxability of income derived by taxpayer, an Otoe Indian, from land conveyed to him by another Indian with the approval of the



Secretary of the Interior, patent to which is held in trust by the United States.

Determination of the proper interest rate to be charged on additional assessments for the years 1918 and 1919, involving a construction of section 283 (d) of the Revenue Act of 1926.

The allowability as a deduction from 1918 income of an alleged loss of  $x$  dollars sustained in 1918 on ruble credits in Russian banks which the taxpayer claims were confiscated in that year by the Soviet Government.

Valuation for invested-capital purposes of certain tangible assets paid in for stock of the corporation. Also question of the proper basis for computing depreciation deductions.

Whether certain contracts paid in for stock had a value which can be recognized for invested-capital purposes.

Claim for classification as a personal-service corporation.

The meaning of the term "net earnings" in section 23 of the merchant marine act of 1920 in respect of vessels operated by owners in their own behalf.

Whether article 862 of regulations 45 and 62 re effect on invested capital of purchase by a corporation of its own stock during the taxable year should be amended by reason of the decision of the Board of Tax Appeals in the appeal of the Clearfield Lumber Co., 3 B. T. A. 1282.

Reconsideration of ruling disallowing as invested capital notes paid in for stock by principal stockholders. Reconsideration requested under T. D. 3240 by reason of subsequent decisions of the Board of Tax Appeals and various courts.

## INTERPRETATIVE DIVISION II

The work of this division is as follows: (1) Interpreting the provisions of law relating to the following taxes: Admissions and dues, beverage, capital stock, gift, estate, excise, insurance, legacy, occupational, oleomargarine, special, stamp, telegraph and telephone, tobacco, transportation; (2) preparing and reviewing regulations, Treasury Decisions, informal memoranda and letters relating to such taxes; (3) reviewing and approving claims for refund of all taxes, including income and excess-profits taxes, involving a net refund of \$50,000 or more, and all cases involving a proposed allowance, including interest, for any year or years aggregating \$75,000, where there is a net refund in any amount; (4) preparing statements of fact to be submitted to the joint committee on internal revenue taxation as required by the first deficiency act, fiscal year 1927, approved February 28, 1927, where a claim has been allowed in excess of \$75,000; (5) assisting in the drafting of contemplated revenue legislation relating to the above taxes; (6) supervising the disposition of real estate acquired by the Government under the provisions of internal revenue laws, and with the approval of the Secretary, authorizing the sale at public vendue of the interest of the United States in such realty; (7) disposing of deficiency protests in income and estate tax cases pending June 30, 1926.

The work performed by this division during the fiscal years ended in 1924 to 1927, inclusive, was as follows:

## 1924

## Real-estate cases:

Pending July 1, 1923	107	
Received during year	3	110
Disposed of during year		61
Pending June 30, 1924		49

During the year 200 hearings were conducted and the division reviewed 3,402 letters and 1,366 interpretative cases.

## Miscellaneous tax claims for abatement and refund:

On hand July 1, 1923	68	
Received during year	7,658	7,726
Disposed of during year		7,514
On hand June 30, 1924		212

## Compromises not in suit:

On hand July 1, 1923	50,333	
Received during year	380,895	

Total to be accounted for	431,228	
Accepted	379,284	
Rejected	6,911	

Total handled	386,195	
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On hand June 30, 1924	45,033	
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Total amounts accepted	\$3,719,971.89	
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## 1925

## Real-estate cases:

Pending July 1, 1924	49	
Received during year	5	54
Disposed of during year		22
Pending July 1, 1925		32

## Interpretative cases:

Pending July 1, 1924	169	
Received during year	1,293	1,462
Disposed of during year		1,289
Pending June 30, 1925		173

## Deficiency protests:

On hand July 1, 1924	0	
Received during year	342	342
Disposed of during year		209
Pending June 30, 1925		133

## Tax board cases:

On hand July 1, 1924	0	
Received during year	148	148
Disposed of during year		31
Pending June 30, 1925		117

## Miscellaneous tax claims:

On hand July 1, 1924	212	
Received during year	6, 256	
	<u>6, 468</u>	
Disposed of during year		5, 710
		<u>758</u>

Pending June 30, 1925

During the year the division conducted 237 hearings and argued 70 cases before the Board of Tax Appeals. After December, 1925, only claims involving net refunds of \$50,000 were referred to this office.

1926

## Real-estate cases:

Pending July 1, 1925	32	
Received during year	3	
	<u>35</u>	
Disposed of during year		11
		<u>24</u>

Pending June 30, 1926

## Interpretative cases:

Pending July 1, 1925	173	
Received during year	849	
	<u>1, 022</u>	
Disposed of during year		928
		<u>94</u>
Transferred to Int. Div. I.		51
		<u>43</u>

On hand June 30, 1926

## Estate-tax deficiency protests:

Pending July 1, 1925	133	
Received during year	138	
	<u>271</u>	
Disposed of during year		237
		<u>34</u>

Pending June 30, 1926

## Tax-board cases:

Pending July 1, 1925	117	
Received during year	271	
	<u>388</u>	
Disposed of during year		103
		<u>285</u>
Transferred to appeals division		285
		<u>0</u>

Pending June 30, 1926

## Miscellaneous tax claims:

Pending July 1, 1925	758	
Received during year	2, 483	
	<u>3, 241</u>	
Disposed of during year		3, 231
		<u>10</u>

Pending June 30, 1926

## Income-tax claims (review division):

Pending July 1, 1925	788	
Received during year	2, 208	
	<u>2, 996</u>	
Disposed of during year		12, 848
		<u>148</u>

Pending June 30, 1926

<sup>1</sup> During the year the method of counting claims was changed and we now count the number of cases received, regardless of the number of claims involved or the number of overassessments prepared.

## Income-tax deficiency protests:

Pending July 1, 1925-----	2, 436	
Received during year-----	0	
		2, 436
Disposed of during year-----		2, 376
Pending June 30, 1926-----		60

During the year the division conducted 198 hearings and argued 105 cases before the Board of Tax Appeals.

During the year the amount involved in income deficiency protests was \$54,342,927.41.

The amounts involved in miscellaneous tax claims disposed of during the year 1926 were as follows:

Amount claimed by taxpayer-----	\$33, 429, 653. 70
Amount recommended by unit-----	15, 425, 002. 95
Amount approved-----	15, 413, 552. 91
Decrease-----	11, 450. 04

The amounts involved in income-tax certificates of overassessment disposed of during the year 1926 were as follows:

Amount claimed by taxpayer-----	\$384, 839, 339. 50
Amount recommended by unit-----	134, 724, 920. 42
Amount approved-----	128, 800, 967. 19
Decrease-----	5, 923, 953. 23

## 1927

## Real-estate cases:

Pending July 1, 1926-----	24	
Received during year-----	7	
		31
Disposed of during year-----		17
Pending June 30, 1927-----		14

13 quit-claim deeds executed and delivered.

## Interpretative cases:

On hand July 1, 1926-----	43	
Received during year-----	344	
		387
Disposed of during year-----		349
Pending June 30, 1927-----		38

## Estate-tax deficiency protests:

On hand July 1, 1926-----	34	
Received during year-----	1	
		35
Disposed of during year-----		35
Pending June 30, 1927-----		0

## Miscellaneous tax claims:

On hand July 1, 1926-----	10	
Received during year-----	531	
		541
Disposed of during year-----		536
Pending June 30, 1927-----		5

## Income-tax claims:

On hand July 1, 1926-----	148	
Received during the year-----	725	
		873
Disposed of during the year-----		613
Pending June 30, 1927-----		260

## Income-tax deficiency protests:

On hand July 1, 1926-----	60
Received during the year-----	1
Disposed of during the year-----	61
	60
Pending June 30, 1927-----	1

During the year the division conducted 134 hearings and from March 1 to the end of the fiscal year prepared statements of fact to be submitted to the joint committee on internal-revenue taxation in 188 cases.

The amounts involved in miscellaneous tax claims disposed of during the year 1927 were as follows:

Amount claimed by taxpayer-----	\$7,981,629.54
Amount recommended by unit-----	5,549,081.41
Amount approved-----	5,549,081.41

The amounts involved in income-tax certificates of overassessments disposed of during the year 1927 were as follows:

Tax claimed by taxpayer-----	\$127,563,234.54
Amount recommended by unit-----	63,447,663.47
Amount approved-----	58,603,313.15
Decrease-----	4,844,350.32
The amount involved in income claims pending June 30, 1927-----	81,561,739.74
The amount involved in miscellaneous claims pending June 30, 1927-----	336,779.43
The amount involved in jackets pending June 30, 1927 <sup>1</sup> -----	11,026,170.72

*Classification of certificates of overassessment pending June 30, 1927*

Year	\$100 or less	\$101-\$500	\$501-\$1,000	\$1,001-\$10,000	\$10,001-\$50,000	\$50,001 or more	Total
1909-----				1			1
1910-----		1		1			2
1911-----			1	2			3
1912-----	1	1	2	2			6
1913-----	4	1	2	1			8
1914-----	3	3	0	5			11
1915-----	3	1	2	6	1		13
1916-----	1	3	3	9	8		24
1917-----	0	2	3	7	11	31	54
1918-----	0	0	0	3	18	74	95
1919-----	0	0	3	9	25	57	94
1920-----	0	0	2	6	26	53	87
1921-----	0	0	1	10	13	15	39
1922-----	0	0	0	4	12	15	31
1923-----	0	0	1	2	10	8	21
1924-----	0	0	0	0	6	3	9
1925-----	0	0	0	0	1	1	2
	12	12	20	68	131	257	500

On June 30, 1927, nine cases were being held awaiting a court decision or board decision on some similar case. One income tax, 1919, questions involved being (1) March 1, 1913, value of stock of M Company, (2) question of decreasing March 1, 1913, value of stock by surplus distributions. This protest is being held awaiting a court decision involving the March 1, 1913, value of the stock of the M Company. Five cases awaiting decisions of Board of Tax Appeals as follows:

<sup>1</sup> This item consists principally of estate and miscellaneous tax cases for review and opinion.

N Company, 1918, 1919. Appeal in later year from commissioner's valuation of patents for depreciation purposes.

O Company, 1920, 1922. Appeal in prior year from commissioner's determination of statutory invested capital.

P Company, 1920. Appeal from deficiency asserted by commissioner against companies ruled not affiliated but included in original consolidated return.

Q Company, 1919. Same question as involved in case of P Company.

Estate of A, 1919. Appeal from deficiency asserted by commissioner against beneficiary denied deductions allowed to estate.

One for 1919 held pending a case before the courts involving the method of determining income of foreign branches of domestic corporations by inventorying current assets and liabilities. One for 1918 is held awaiting decision in its own case now pending before the Court of Claims. One for 1920 for B Estate trust, one for C, one for D accumulated income, awaiting disposition of appeal before the Board of Tax Appeals. The question involved here is the proper distribution of income under the will to the beneficiaries in this case.

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#### ATTORNEY A

In accordance with your request I have reviewed the cases handled by me during the month of May, 1927. During that month 20 cases were considered and 18 were disposed of. The two cases not disposed of were found to involve points requiring additional information and conferences were scheduled with representatives of the companies and the cases were disposed of after the additional information was submitted and the cases had been reviewed in the following month.

In the review of claims cases in which net refunds are in excess of \$50,000 this division is met with two problems. First, the cases that are forwarded do not outline the particular points involved and it is necessary to thoroughly review prior audits back to the original return in order to find the net changes resulting in the present allowance. After the changes have been determined it is necessary to review these changes to find if they conform to the provisions of the various revenue acts. It is also necessary to review the deductions claimed on the return and not disturbed in the present audit in order to determine whether or not the present tax liability has been computed in accordance with the provisions of the revenue act. The actual review of the case therefore requires preliminary work to determine the points involved as well as of work incident to review as a legal proposition of the deductions resulting in the overassessment.

With respect to the cases required to be submitted to the joint congressional committee on internal-revenue taxation this office is required, in addition to the review of the case, to prepare a memorandum setting forth in detail the adjustments from the original return to the present audit causing the refunds. Although these adjustments would not require comment in many instances within the bureau, as they are covered by well-known bureau rulings, it is

necessary in the preparation of the memorandum for the joint committee to set out the basis for the decision of the various points.

For the month of May seven memoranda were prepared for the committee, nine for the attention of the Income Tax Unit, and nine were prepared for interoffice purposes explaining the basis for the approval of the certificates of overassessment as submitted by the unit.

*Case I.*—Issues: The proper method of reporting the income earned through shipments to foreign-owned subsidiary companies and the proper method of computing statutory invested capital in view of sales of foreign patent rights to the foreign subsidiary companies were the points involved in this case.

*Amount involved*

Total difference from return-----	507 <i>x</i> dollars
Amount present certificate-----	69 <i>x</i> dollars

The taxpayer, a domestic corporation, owned during the year under review the entire capital stock of a number of foreign subsidiary companies. These subsidiary companies were not affiliated within the meaning of the revenue act, and the taxliability of the parent company was determined as if these subsidiary companies had no relation to the taxpayer. The taxpayer in maintaining its books and records, however, treated the foreign companies as unincorporated departments. The articles shipped to these companies were, therefore, billed by the taxpayer at an arbitrary figure, which amount was included in sales. The principal portion of the overassessment was due to the allowance of a restatement of these shipments at the price charged the other large customers of the taxpayer. In addition to the incorporated foreign branches several unincorporated foreign agencies had consigned goods on hand at the end of the year. The unsold portion of these consigned goods was included in the closing inventory at the billed price, which was 176 *x* dollars in excess of the cost of the merchandise. The exclusion from income of this overstatement of closing inventory was approved by this office as being in accordance with the provisions of section 203 of the Revenue Act of 1918.

With respect to the invested capital the audit resulting in the overassessment restored patents transferred to a foreign subsidiary company for its capital stock to the full par value of that capital stock rather than the value of the patents (originally acquired by the taxpayer for its capital stock) subject to the limitation provided in section 326 of the Revenue Act. As the stock of the foreign company constituted a tangible asset the conversion of the intangible good will into the tangible asset removed it from the valuation restriction imposed by section 326. This office approved the audit of the Income Tax Unit in this connection as being in accordance with the provisions of section 326 of the Revenue Act of 1918. The principal difficulties encountered in the review of the case arose in connection with a review of the complicated accounts and audit adjustments so as to single out the net changes resulting in the overassessment. As the amount involved exceeded \$75,000 a detailed analysis of all changes was prepared in the form of a memorandum for the attention of the Joint Committee on Internal Revenue Taxation.

*Case II.*—Issues: This case involved the administrative question of the proper application of an overassessment against the tax liability which had previously been abated as uncollectible in view of the bankruptcy of the taxpayer.

Amount involved,  $x$  dollars.

After ascertaining from the records division of the Income Tax Unit that the proposed overassessment involved the allowance of an abatement claim and that the additional tax for other years had been abated as uncollectible, so that there was no true net refund involved, this case was returned to the Income Tax Unit as not being subject to review by the general counsel.

*Case III.*—Issues: There were a large number of minor changes in this case, but the principal cause for the overassessment was the propriety of allowance of a deduction from income in each year for amortization of the cost of the gas-purchase contract acquired in 1913.

Amount involved,  $325x$  dollars.

The taxpayer acquired a gas-purchase contract in April of 1913 in exchange for another valuable contract. The Income Tax Unit valued this gas-purchase contract, in view of the market price of gas, estimated reserve in the field, and estimated years of production, and through a capitalization of savings arising out of the low purchase price fixed a value for the contract of  $1,500x$  dollars, and allowed this sum to be amortized over the life of the contract. The allowance of this deduction, the value having been properly verified by the Income Tax Unit, is in accordance with the provisions of section 234 of the Revenue Act of 1918, and this office therefore approved the certificate of overassessment as proper. In view of the fact that the amount of the overassessment exceeded \$75,000, a complete reconciliation of the income shown on the original return with that shown in the present audit of the case was prepared in the form of a memorandum for the attention of the Joint Committee on Internal Revenue Taxation. The preparation of this memorandum involved considerable work, in view of the many changes made from the original return to the income shown in the present bureau audit.

*Case IV.*—Issues: Propriety of bureau audit resulting in overassessment due to a ruling that the taxpayer was not affiliated with the M Company and the N Company within the meaning of section 240 of the Revenue Act of 1918.

Amount involved, proposed overassessment under bureau audit,  $x$  dollars.

As the entire overassessment in this case resulted from the ruling of the Income Tax Unit, with respect to affiliation, the basis for the affiliation ruling was carefully reviewed. Several conferences were afforded representatives of the taxpayer and additional information was secured in regard to the relationships of the stockholders among themselves in the various companies and the method of business conduct of the three companies above mentioned. From a review of the evidence in the file this office found that the three companies constituted an economic unit; that there were shiftings of profits; other interchanges of employees and capital and that an identity of management and directorate existed during the entire year. It was also found that the stock ownership in the three companies was owned or controlled by A, B, C, and D to the extent of 96 per cent in the taxpayer company, 100 per cent in the N Company, and 100 per cent



in the M Company throughout the year. In view of the close economic unity and mutual business interests of the four stockholders this office held that the stockholders constituted the same interests within the meaning of section 240 of the Revenue Act of 1918, and that, therefore, the companies should be ruled affiliated throughout the year. The Income Tax Unit was advised that this holding was in accordance with the decisions of the Board of Tax Appeals in the cases of Hamilton & Chambers, 1 B. T. A. 694, Rishell Phonograph Co., 2 B. T. A. 229, and Boston Structural Steel Co., 1 B. T. A. 1004.

An audit on an affiliated basis has been made indicating a net additional tax of  $22x$  dollars, which eliminates the entire previous over-assessment proposed by the Income Tax Unit.

*Case V.*—Issues: This case was submitted to this office to determine whether or not the present audit was in accordance with the decision of the Board of Tax Appeals rendered in the taxpayer's case.

Amount involved,  $x$  dollars.

After the decision of the Board of Tax Appeals in this case a re-determination of tax liability was made and following the approval of this office the resultant tax liability was agreed to in final settlement under rule 50 of the Board of Tax Appeals. The certificate of over-assessment prepared in this case was found to reflect the true tax liability as determined by this office under the decision of the Board of Tax Appeals. The certificate so prepared was approved.

*Case VI.*—Issues: The proposed overassessment in this case arose out of reductions in income due to revaluations of inventory, the allowance of additional depreciation, and the allowance of amortization.

Amount involved,  $x$  dollars.

The taxpayer originally used a weighted-average method of valuing its inventory. This method was contrary to the bureau decision contained in T. B. R. 48, published 1 C. B. 47. Based upon a field examination made by inventory engineers of the bureau, revised inventories were computed in accordance with the provisions of article 1582, Regulations 45. The revised inventory at the opening of the taxable year 1919 showed an increase of  $223x$  dollars over that shown on the return, and the inventory at the end of the year was decreased by  $30x$  dollars. These adjustments resulted in a decrease in taxable income for the year 1919 of  $262x$  dollars. As the inventories used in the present audit of the case were valued in accordance with the provisions of section 203 of the Revenue Act of 1918, the decrease in income resulting therefrom was approved by this office. The Income Tax Unit also reduced the income of the taxpayer by  $191x$  dollars for additional depreciation over that claimed on the original return. The allowance of depreciation was found by this office to be based upon reasonable rates on the proper value of the assets and the additional deduction allowed by the unit was approved.

In addition to the foregoing the income shown by the return was reduced in the amount of  $80x$  dollars for amortization. A claim for amortization was filed October —, 1922, and the costs of the assets acquired for war production were verified by a field examination. The loss sustained by the taxpayer on these assets was determined by the

sales price during the postwar period, where the assets were sold and by the value in use where the assets were retained, which value in use was computed in accordance with the method approved by the Board of Tax Appeals in the Manville Jenckes Co., 4 B. T. A. 765. As the claim for the allowance was filed within the period indicated in section 1209 of the Revenue Act of 1926 and the deduction was determined in accordance with the provisions of section 234 (a) (8) of the Revenue Act of 1918, the allowance appeared proper and this office approved the reduction in income arising therefrom. The original computation of amortization was resubmitted to the unit and checked by the bureau engineers to verify the fact that the computation was in accordance with the Manville Jenckes decision. The final allowance as approved by this office was, therefore, in accordance with the rulings and regulations approved at the date of the scheduling of the certificate of overassessment. The principal difficulty in the review of this case was encountered in connection with the reconciliation of the income shown by the return with that shown by the company's books and that shown in the present audit of the case. A detailed statement of the adjustments resulting in the overassessment was prepared for the attention of the Joint Committee on Internal Revenue Taxation.

*Cases VII and VIII.*—Issues: These companies were audited in connection with the M Company involved in Case VI, and were affiliated with that company during the year under review. The issues involved were the same as those involved in that case, except that they arose in connection with a different year from that for which the overassessment in that case was prepared.

Amount involved, N Company, 8 $\times$  dollars; O Company, 5 $\times$  dollars.

As above stated, these two companies were affiliated with the taxpayer in Case VI during the year under review. The same error in connection with consolidated inventories was discovered for the year 1918 as existed for the year 1919. The use of the weighted-average method of valuation adopted by the taxpayer was rejected by the Income Tax Unit and, based upon a field examination, the inventories at the beginning of the year were increased 1,050 $\times$  dollars and at the end of the year increased 223 $\times$  dollars. This revision of inventories resulted in a net reduction of income of 827 $\times$  dollars. As the inventories used in the present audit of the case were valued in accordance with the provisions of section 203 of the Revenue Act of 1918 and article 1582, Regulations 45, the net reduction in income arising therefrom appeared proper and was approved by this office. The income for the fiscal year 1918 was also reduced by the allowance of a deduction for amortization. For the reasons stated in connection with Case VI, this office approved the reduction in income arising out of the allowance of amortization. These adjustments to income resulted in the overassessments in favor of both of the above-named subsidiary companies of the taxpayer in Case VI.

As the overassessments, together with interest, exceeded \$75,000, a memorandum was prepared reconciling the income shown on the original return with the income shown in the present audit for the attention of the Joint Congressional Committee on Internal Revenue Taxation. As stated in connection with case VI, the preparation of this memorandum involved considerable trouble in view of the

discrepancies between the incomes reported on the books on the original return and in the final bureau audit.

*Case IX.*—Issues: This taxpayer was engaged in the production of articles for the Government under war contracts. In 1919 it received an award in final settlement and the question involved is concerned with the proper method of reporting income during the years 1918 and 1919 received both from operations under the war contracts and from the award in final settlement.

Amount involved, proposed by unit, 74  $\pi$  dollars; approved by this office, 40  $\pi$  dollars.

The award received by the taxpayer under the Dent Act has been held by this office to be income from Government contracts taxable in 1919 at 1918 rates. This decision was in accordance with the holding of the Board of Tax Appeals in the case of A. B. Kirchbaum, 5 B. T. A. 65. The taxpayer had, however, reduced the valuation of inventories of materials held for Government contracts from the cost of such materials to a very low figure, claimed to represent the market at December 31, 1918. In view of the fact that these materials were held for production under Government contracts, and in view of the fact that in the settlement of 1919 cash reimbursement was made to the extent of cost for these materials, this office returned the case to the Income Tax Unit recommending that the materials be included in the closing inventory for 1918 at cost rather than the lower market figure. This recommendation was in accordance with the consistent decisions of this office in similar cases. The result of the reaudit of the case in accordance with the recommendation of this office was a net reduction in the overassessment proposed in the amount of 33  $\pi$  dollars. The taxpayer was afforded several conferences in this case and considerable research was necessary in order to meet the objections to the proposed method of valuing inventories advanced by the taxpayer.

*Case X.*—Issues: The audit of this case principally concerned a restatement of income and tax liability in accordance with the installment sales provisions of the Revenue Act of 1926, which were made retroactive to cover the year 1919, for which year the present overassessment was proposed.

Amount involved, recommended by Income Tax Unit, 5 $\pi$  dollars; approved by this office  $\pi$  dollars.

The audit by the Income Tax Unit was found after review by this office not to conform with the provisions of articles 42-46, inclusive of Regulations 69, section 1208 of the Revenue Act of 1926. The prior bureau audit excluded from income that portion of the receipts during the taxable year representing profit reported as income for prior years. The present audit of the case is in accordance with the above articles of Regulations 69 and the provisions of T. D. 3521, which provide that no payment received during the taxable year should be excluded in computing the amount of income to be returned on the ground that it was received under a sale, the total profit from which was returned as income during the taxable year or years prior to the change by the taxpayer to the installment basis of reporting income.

*Case XI.*—Issues: The overassessment in this case is due to a reduction in income by the allowance of amortization in the amount of 62 $\pi$  dollars and the restoration to invested capital of accounts previously charged off of 57 $\pi$  dollars.

Amount involved, overassessment recommended by Income Tax Unit,  $54x$  dollars; approved by this office,  $51x$  dollars.

The amortization loss in this case is the difference between the depreciated cost of assets acquired for the production of articles contributing to the war and the sales price of the property during the postwar period. The taxpayer's case was not closed on March 3, 1924, and therefore the allowance of the war loss sustained in connection with amortization was held proper by this office.

In the prior audit of the case the Income Tax Unit restored to invested capital  $80x$  dollars, the amount paid in reduction of a mortgage on the taxpayer's property and charged to expense on the books. This office recognized that the payments on the mortgage debt constituted capital expenditures but returned the case to the Income Tax Unit for an apportionment of the expenditures between depreciable and nondepreciable property. Depreciation on the buildings partly covered by the mortgage was then deducted from the restored payments and the net capital investment at the beginning of the taxable year of  $57x$  dollars was restored to statutory invested capital. This adjustment of the case appeared proper and the overassessment prepared as a result of the inclusion of this item in invested capital and the allowance of the amortization deduction was approved. Several conferences were held with representatives of the taxpayer and additional information was submitted to establish the proportion of the capital expenditures properly allocable to the depreciable property.

*Case XII.*—Issues: The certificates of overassessment in this case are principally certificates abating large additional taxes assessed in 1924. The tax paid by the company aggregates  $y$  dollars, and to this extent the proposed overassessment represents a refund. The net refund arises out of the allowance of depletion and depreciation, the abatement out of an amended audit in accordance with the actual facts concerning the taxpayer's earnings.

Amount involved, proposed by Income Tax Unit,  $45x$  dollars; approved by this office,  $44x$  dollars.

The taxpayer and its affiliated subsidiary companies owned some mining properties, but from the field examination of the books and the claims filed by the receivers in bankruptcy the corporation was principally a stock-jobbing enterprise. The returns filed by the companies were very involved and could not be audited from the information contained therein. The first field examiner was refused information by the company, the officers informing him that the books were sent to a foreign country at the end of each year in order that they might not be available in the event they were subpoenaed by the United States courts. The examining officer went to the stock exchange and prepared a report based upon the income which the company had stated to the stock exchange had been earned in each year. This income was apparently padded in order to aid stock sales and was largely composed of the receipts derived from the sale of stock rather than from the sale of minerals. A subsequent examination was made by the Income Tax Unit and from the records which were then made available it became evident that the taxpayer (ignoring depletion) earned a very small income, approximately equaling the total income reported earned on the original returns. The present overassessments to the extent of the large additional

taxes were therefore due to the exclusion from income of receipts from stock sales. This reduction in income is in accordance with the provisions of Article 563, Regulations 45 and therefore the over-assessment to that extent was approved by this office.

The additional depletion allowed by the Income Tax Unit wiped out the entire income and the proposed overassessment refunded the tax originally paid. The allowance of the deduction for depletion appeared proper in view of the bureau findings that the deduction represented the actual loss sustained by the taxpayer from that source during the years under review.

However, the audit by the Income Tax Unit did not allocate the original tax in accordance with the provisions of section 240 of the Revenue Act of 1918 and the decision of the Board of Tax Appeals in the Mather Paper Co. case, 3 B. T. A. 1. The file was returned to the Income Tax Unit for reaudit in this connection. The case has not been returned to this office; but approximately two-thirds of the over-assessment of net tax paid on the original return will be barred, as no claims were filed within the statutory period. As in the case with most bankruptcy files, the reconciliation of the income and capital shown on the original return with that shown in the present audit of the case was extremely difficult. The returns were not properly filed in the first instance and the returns, books, and present audit, being compiled from different sources, were difficult to reconcile.

*Case XIII.*—Issues: The overassessment originally proposed by the Income Tax Unit was due to the allowance of a deduction from income for additions to reserve for unredeemed premium coupons.

Amount involved, overassessment proposed by unit, 67x dollars; amount approved by this office, none.

It has been the policy of the taxpayer from 18— to issue coupons with certain classes of its products, these coupons being redeemable in premiums. In all years prior to 1921 the taxpayer alleged that it deducted from gross income the cost of redemption of coupons actually redeemed each year without reference to the year of the issue of the coupons. No liability appeared on the books at any time prior to the close of 1921 for unredeemed coupons. At the end of 1921 the taxpayer estimated that it would redeem 60 per cent of all coupons issued, and on that basis set up out of income a reserve for the cost of redeeming coupons for 1921.

The Income Tax Unit, after a review of all the evidence, and based upon the taxpayer's experience in prior years, fixed the percentage of coupons redeemed at 56.6 and set up a reserve for unredeemed coupons as at December 31, 1920, out of surplus to cover the liability existing on that date. Since the taxpayer had taken a deduction based upon the 60 per cent redemption, the audit, in accordance with the finding that the percentage of coupons redeemed was 56.6, should have resulted in additional income. The error in the bureau computation was found after review by this office to be in the assumption that a portion of the reserve constituted the sole addition for 1921. The taxpayer was afforded a conference and furnished this office with journal entries and data explaining the entire transaction as entered on the company's books. The case was returned to the unit and an audit, in view of the additional information, resulted in an additional tax liability of approximately 2x dollars. As the certificate of overassessment had previously been scheduled, this office

advised the Income Tax Unit to remove the certificate from schedule and assess the additional tax liability.

*Case XIV.*—Issues: The entire proposed overassessment resulted from an audit of the taxpayer and the N Company on a consolidated basis for the year 1921. The propriety of consolidation was the point involved in this case.

Amount involved, overassessment proposed by Income Tax Unit, 112 $\times$  dollars; additional tax as result of review by this office, 109 $\times$  dollars.

The audit on the basis of consolidation resulted in the overassessment proposed by the unit. On a nonaffiliated basis there was a taxable income for the taxpayer which resulted in an additional tax liability of 109 $\times$  dollars. The loss of the N Company could not be offset against the income of the taxpayer, as the companies were held not affiliated, so the net saving in tax by the audit in accordance with the recommendation of this office was 221 $\times$  dollars.

With respect to the facts involved it was noted in the review by this office that the voting stock of the taxpayer was owned by a number of companies. These companies are separate corporations unrelated as between themselves and are owned more than 50 per cent by interests which would be classed, from an ownership standpoint, as "minority" so far as the remainder to the group of related companies is concerned. These companies sell their products through six agencies. These agencies are corporations and are owned individually, so that on a proprietorship basis they are not affiliated among themselves or with any of the companies. The agencies are, however, each represented by a principal stockholder who is active in the management of the business. These officers vote through proxies all of the stock of the N Company owned by the various agency corporations. There is no allegation in the file that these officers of the agencies vote the stock as a unit. The ownership of the stock is distributed unequally among the six agencies and that owned by each agency appears to have been voted by proxy by the principal officer in such company.

These same officers of the six agencies have been created trustees under a voting-trust arrangement by which the stock of the taxpayer owned by the companies is placed under unified control. Thus the affiliation of the corporation with the N Company is based by the unit on the fact that the same six individuals vote the stock of the N Company by virtue of proxies and the stock of the taxpayer by virtue of the voting trust. There is no identity of stock ownership to any material extent between the companies, the minorities through ownership appearing from the information now in the file to exceed 80 per cent of the total issue.

In view of the holdings of the Board of Tax Appeals in the case of Parker Sheet Metal Works, 3 B. T. A. 608, and Watsontown Brick Co., 3 B. T. A. 85, this office held that a mere majority ownership would not suffice to establish affiliation and that control of the business did not establish control of stock. The control contemplated by the act is control of voting rights. (Baird Machine Co., 2 B. T. A. 89, and cases cited therein.) It was apparent that the same individuals as officers of the agencies did not vote the stock of the N Company owned by the agencies in their own right. The control of the stock belonged to the agencies but not to the officers who as agents

for their respective corporations voted the stock. (Block Street Wharf & Warehouse Co., 2 B. T. A. 183.) Since, therefore, the control of the stock of the taxpayer was not in the same interests who owned and controlled the stock of the N Company this office advised the Income Tax Unit that those companies should be ruled not affiliated for the year under review.

*Case XV.*—Issues: The taxpayer was engaged in the production of articles for the Government under war contracts. The proposed overassessment arose in connection with a revaluation of inventories of materials acquired to produce the articles for the Government. The issue involved, therefore, was concerned with the propriety of the prices fixed by the unit in valuing the taxpayer's inventories.

Amount involved, proposed overassessment by the unit,  $3x$  dollars; additional tax under audit in accordance with recommendation this office,  $2x$  dollars.

The taxpayer's original returns did not reconcile with the books, the figures contained in the return being taken from other sources. This is particularly true with respect to inventories. The Income Tax Unit following a field examination revalued the inventories on a cost of replacement basis for all years. Based upon this revaluation of inventories the certificates of overassessment recommended by the unit were prepared.

This office reviewed the case and found that the materials inventoried were acquired for production under war contracts. The taxpayer was actually reimbursed in 1919 under the Dent Act for the entire cost of the material so acquired. This office therefore held that the inventories should be carried at cost and not at some other arbitrary figure. This valuation was in accordance with the provisions of section 203 of the revenue act of 1918. A reaudit of the case in accordance with the recommendation of this office resulted in a reduction in the overassessment of  $5x$  dollars.

*Case XVI.*—Issues: The taxpayer in this case in preparing its original return valued inventories on a cost or market, whichever is lower, basis. The Income Tax Unit in auditing the case valued the inventories on a cost basis. The overassessment arising from this action was entirely due to the method of valuing inventories and this was the only issue in the case.

Amount involved,  $x$  dollars.

This case involved a point very similar to that encountered in Case XV. The taxpayer in this case was engaged in production of articles for the Government under war contracts. The materials purchased, however, for this Government contract production were in all respects standard and of the same general specifications as those acquired for the production of normal peace-time merchandise, and the taxpayer was engaged at the same time in the production of both Government contract goods and peace-time goods.

There was no method of allocating the goods purchased to Government contracts and to peace-time installations prior to the requisition of the raw materials for the particular jobs. The actual employment of the goods and allocation of the goods to the various types of jobs constituted the first appropriation which would earmark goods acquired for Government-contract purposes from the goods acquired for peace-time production. In view of this situa-

tion this office held that the taxpayer in accordance with its election should be permitted to inventory materials not appropriated to Government contracts upon a cost or market, whichever is lower basis. This method of valuation of inventories is in accordance with section 203 of the Revenue Act of 1918 and article 1584 of Regulations 62. The file was returned to the Income Tax Unit for reaudit in accordance with this recommendation, and the amended certificate prepared in accordance with this reaudit have not been returned to this office. Several conferences were held with the taxpayer in developing the difference between the method of production and operation of this company and other companies engaged in war manufacture.

*Case XVII.*—Issues: This case involved the question of the proper method of computing tax for the first taxable period in 1918 where the taxpayer maintained its accounting records on a fiscal-year basis and had previously filed its returns on a calendar-year basis.

Amount involved,  $\infty$  dollars.

Under the decision of the Board of Tax Appeals in the case of Henry D. Weed, 2 B. T. A. 84, the tax should have been computed in accordance with the provisions of section 226 of the Revenue Act of 1918 and not under the provisions of section 205. The Income Tax Unit, however, stated that the inventory at December 31, 1917 (although satisfactory for the purpose of closing the calendar year 1917 case), was not sufficiently accurate to determine the income for the first period ended in 1918. This office returned the case to the Income Tax Unit with the recommendation that the tax for the first period ended in 1918 be computed under the provisions of section 226 and that the income for this period be determined by allocating the fiscal-year income shown on the original books between the portion falling in the calendar year 1917 and in the first fiscal period falling in the year 1918. This adjustment of income permitted a computation of tax in accordance with the proper provisions of the Revenue Act and in accordance with the decision of the Board of Tax Appeals above cited. The resultant tax liability, although different from that indicated in the prior audit by the Income Tax Unit under section 205, did not change the amount of the proposed certificate of overassessment, as that amount was limited by the provisions of section 284 of the Revenue Act of 1926. Several conferences were held with the taxpayer in this case and the final audit has been acquiesced in by the taxpayer. The taxpayer was inclined to protest the previous audit of the case as not being in conformity with the decision of the Board of Tax Appeals in the Henry D. Weed case cited supra.

*Case XVIII.*—Issues: The issue involved in this case was the propriety of a redetermination of amortization after March 3, 1924, the date mentioned in section 234 (a) (8) of the Revenue Act of 1921.

Amount involved, amount allowed by unit, none; amount claimed by taxpayer,  $\infty$  dollars.

This case was forwarded to this office in connection with the taxpayer's protest that the amortization should not now be redetermined in view of the provisions of the Revenue Act of 1921. It was found by this office after a review of the entire file that the taxpayer's case had not been closed on March 3, 1924, and in fact was not closed at the present time. The amount of amortization therefore had never been determined finally, and the present inquiry into the proper



amortization deduction was not in the nature of a redetermination but was in the nature of the usual investigation leading up to a determination of the proper deduction allowable. The case was therefore returned to the Income Tax Unit with a recommendation that the amortization feature be considered on its merits and the case closed in accordance with the findings of the Income Tax Unit. It is impossible to state at the present time whether the review of the amortization under the decision of the Board of Tax Appeals in the Manville Jenckes case will result in an additional tax liability or a refund.

### ATTORNEY B

In response to your request for a statement of the cases handled by me during a typical month I have prepared the following data. It is my experience with these cases, involving overassessments, that few of them can be disposed of as originally submitted, but most of them require conferences, submission of additional data, and sometimes audit revisions. This results, among other things, in work being done on a particular case at different times, and it often happens that a case may be almost completely worked up in a period of time preceding the month when recorded as disposed of here.

The following indicates the difficulty of some of the cases:

Case 1: M partnership and A, a partner. When previously before this office there was a certificate of overassessment to the partnership for 1917 in the amount of 58*x* dollars and to the individual partner a certificate for 55*x* dollars. Upon consideration here this office returned the record to the Income Tax Unit for further consideration. Thereafter a revised audit was made, the result of which was to reduce the partnership overassessment from 58*x* dollars to 54*x* dollars, and the overassessment of 55*x* dollars to the individual was converted to a deficiency of some 25*x* dollars. Our office action in this particular month was to approve the revised certificate to the corporation. The overassessment was due chiefly to allowance of additional depletion deductions and was based upon a field agent's report.

Case 2: M Company. This case was first submitted on a certificate of overassessment for the fiscal year ended March 31, 1918, in the amount of 3*x* dollars. The reduction in tax was due to allowance of depletion, under the 1917 law, on the March 1, 1913, value of a leasehold (which action was later confirmed by the United States Supreme Court decision in the case of *Lynch v. Alworth-Stephens Co.*, T. D. 3690), and the allowance of special assessment under section 210 of the 1917 act and section 327 of the 1918 act. This office ruled against the allowance of special assessment in a memorandum, and the revised certificate of overassessment approved in this month was for 2*x* dollars.

Case 3: A. This individual was a stockholder in the X Company and so received a distribution in liquidation in January, —. This transaction has received much consideration in the department, in connection with other participating stockholders. It was found necessary to obtain additional data in the case of A as to certain other losses claimed on disposition of securities, also a further field agent's report, with reference to the X liquidation transactions. In this month the case received consideration upon a revision of the audit, partly based upon memoranda from this office, but the audit has since been further revised, based upon the additional data furnished this year, and is not yet closed. The certificate last proposed was in the amount of 124*x* dollars for the taxable year.

Case 4: M Company. The years 1917 and 1918 were involved here, and the year 1917 had previously been considered in a recommendation by the old Committee on Appeals and Review and in a memorandum by this office. The certificate for 1917 was for 16*x* dollars and that for 1918 was 17*x* dollars. Errors were found in the audit, and a conference was held with the Income Tax Unit auditor and the taxpayer's representative, at which the latter agreed to revision of the allowances for depreciation and for obsolescence of certain assets, and the record was returned to the unit on a memorandum. The case was later returned

here for approval of the revised audit, which showed a net increase in tax for the period from 1913 to 1920, inclusive, of 6*x* dollars.

Case 5: X Company and Y Company. These two corporations filed consolidated return for 1918, but later were ruled not affiliated, under the rulings of the department then in effect, which adhered to legal and not actual stock control. Upon resubmission of the audit upon a separate basis, due to the commissioner's acquiescence in board decisions sustaining actual control in lieu of legal control, it became necessary to reexamine the affiliation feature. Duplicate assessments had been made but only one was paid. There was also some doubt as to the collectibility of the unpaid assessment, and the Board of Tax Appeals decision in the case of Mather Paper Co., 3 B. T. A. 1, relative to allocation of tax was at first not acquiesced in by the commissioner. The taxpayer's attorneys and agents were invited here for a conference, and as a result thereof an agreement was made to allow affiliation and by filing a new waiver to increase the tax collectible by something like 25*x* dollars, although final action on the case did not come before me.

Case 6: M Company. This concern had been much considered in the department, with particular reference to its invested capital and the application of the limitation on intangibles. This was the subject of a memorandum by this office. The record here contained certificates of overassessment for 86*x* dollars for 1918 and for 17*x* dollars for 1919. Questions arose as to the depreciation or amortization of leaseholds, particularly those with extension periods. Hearings were afforded the taxpayer's general counsel and copies of leases were brought down from New York. Upon consideration of this additional data the unit's adjustment was found to be correct and the certificates of overassessment were approved.

Case 7: M Company. This case contained a certificate of overassessment for 8*x* dollars for the year 1918, which was the result of allowing special assessment under section 327 of the 1918 act. Upon consideration of the case in this office, in connection with others similar, it was held that special assessment grounds did not exist and the overassessment was disallowed.

Case 8: M Company. This case contained a certificate of overassessment for 5*x* dollars for 1918, based upon allowance of special assessment under section 327 of the Revenue Act of 1918. This was another of the cases considered with regard to the basis for allowance of relief, and it was decided that proper grounds did not exist in this case. The certificate of overassessment was therefore disallowed.

Case 9: M Company. This case is one that had received much consideration in the department for a number of years. Our office approved an audit adjustment in January, —, through approval of certificates of overassessment for 1918 and 1919, in the respective amounts of 202*x* dollars and 173*x* dollars. Thereafter, in —, the taxpayer asked for the allowance of additional amortization on facilities disallowed as expense deductions, and for reallocation of the amortization allowance in accordance with a change in the regulations, with particular reference to facilities not completed in time to produce war articles. Then numerous briefs were filed and a number of conferences were held in which many other points were raised. The audit was revised for 1917, 1918, and 1919 and resubmitted to this office for approval of certificates of overassessment for 1917 and 1918 in the respective amounts of 78*x* dollars and 326*x* dollars. After receipt of briefs here and a number of conferences with the taxpayer's representatives there was prepared here in this month an informal memorandum to the unit covering various issues. Since that time, however, due to additional briefs and conferences, that memorandum has subsequently been revised.

Among the major issues in case 9, that have been considered here, are the following:

1. Proper treatment of intercompany profits in inventories at January 1, 1917, with respect to invested capital, and as to determination of net income subject to excess-profits tax and the net income subject to the 2 and 4 per cent normal tax. This point was considered in an interpretative ruling, S. M. 3384, C. B. IV-1, 277.

2. Proper treatment of intercompany profits in inventories at January 1, 1918, both from the standpoint of invested capital and computation of the net income, subject to the 12 per cent normal tax and to the profits taxes. S. M. 1530, III-1 C. B. 307, made a ruling as to such inventories, from the standpoint only of net income subject to the 12 per cent income tax. Subsequently,

a question was raised as to the elimination of such profits from invested capital, although the taxpayer later conceded the applicability of the limitation in section 331 of the 1918 act, but this office has not yet conceded that such profits (approximating 250  $x$  dollars) should be excluded from profits tax in 1918 (and therefore for all years) by being included in January 1, 1918, inventories.

3. The taxpayer has challenged the bureau's right to redetermine amortization under such recent board decisions as that in the case of Manville Jenckes Co., 4 B. T. A. 765. Subordinate points have been discussed, such as the proper facilities subject to amortization, and, prior to the decision by the board in the G. M. Standifer Construction Corporation case, 4 B. T. A. 525, what companies had established a proper basis for such allowance.

4. Reduction of invested capital for prior year's Federal income and profits taxes, in accordance with article 845, Regulations 45. The issue was later settled by section 1207 of the Revenue Act of 1926, contrary to the taxpayer's contentions, and the case of Guaranty Construction Co., 2 B. T. A. 1145. See also Russel Wheel & Foundry Co., 3 B. T. A. 1168.

5. Restoration to invested capital of 200  $x$  dollars for patents that expired prior to 1917. The Income Tax Unit recognized this claim as good will emerging from patent values, but this office has not yet recognized the claim, on authority of such decisions as the Union Metal Manufacturing Co., 1 B. T. A. 395; Winsor & Jerauld Manufacturing Co., 2 B. T. A. 22; Northwestern Steel & Iron Corporation, 6 B. T. A. 119; Dexter Folding Co., 6 B. T. A. 655; Lee Hardware Co. *v.* United States, T. D. 3883; La Belle Iron Works *v.* United States, T. D. 3181 and 256 U. S. 377; and T. D. 3877.

6. Loss of 93  $x$  dollars claimed on lands purchased to establish a power site, which attempt, due to adverse legislation and loss of a Supreme Court decision, proved abortive. The Income Tax Unit conceded this claim but this office has not yet done so, relying upon such decisions as A. J. Schwarzler Co., 3 B. T. A. 535, and Fred C. Champlin, 1 B. T. A. 1235. The loss was claimed for —, when the Supreme Court's mandate came down. Incidental issues arose such as the drop in value of the riparian lands, the subsequent history of the power-site project, and the basis of valuation on condemnation proceedings.

7. A loss of 29 $x$  dollars was claimed for the cost of certain manufactured articles seized as contraband upon the high seas in neutral vessels by a belligerent in 1914, and later thrown into prize court. The latter's decision was adverse to the taxpayer, which conducted its defense in the name of another, and it was established that the loss was not definitely determined until the court's decision in —. Preliminary investigation was necessary to determine whose loss it was, the amount, and when actually sustained.

8. The deduction for franchise taxes of the State of X. This issue involved the proper amount and the year when deductible. Additional data were supplied to enable a decision on the issues, based upon the cases of Jamestown Worsted Mills, 1 B. T. A. 659, S. M. 4499A, V-1 C. B. 56; Alpha Portland Cement Co., 230 N. Y. 48.

9. An invested capital adjustment of 754 $x$  dollars through acquisition of the stock of the subsidiary N Company. The unit first proposed to eliminate this item, and was sustained in a memorandum by this office. The taxpayer asserted that it never had been afforded a right to be heard on this issue, however, and submitted argument, briefs, and additional data. It contended that article 867, Regulations 45 and T. D. 2662 (as to this point) are invalid and contrary to law. Subsequently data were furnished to establish the market value of the assets of the subsidiary at acquisition of its stock, within about 125 $x$  dollars of the amount of capital claimed. The taxpayer relied upon such decisions as Regal Shoe Co., 1 B. T. A. 896, and Union Petroleum S. S. Co. *v.* Edwards, 7 Fed. (2d) 301.

10. Discussion was had regarding the affiliations under the 1917 law, since the consolidated group included corporations producing things with no connection, superficially examined. After receipt of additional data the taxpayer established close economic connection of certain doubtful corporations so that now the taxpayer and the department are in agreement.

11. Sundry errors were found in the mechanical end of the audit that are not of major importance.

Case 10: In the case of M Company, the bureau had split up a consolidation as returned, and as the commissioner had not acquiesced in the Mather Paper Co. decision, 3 B. T. A. 1, there was an overassessment of 24 $x$  dollars to this member of the former group, with corresponding deficiencies to the other three members of the group. The taxpayer's agent came to Washington bringing

appeals in those cases, but since the aggregate tax was not far different from the original single assessment, he agreed to withhold the appeals if the bureau would approve the certificate. This it was possible to do, after going into the merits of the case, and the certificate was approved. Before the refund was finally made, the commissioner acquiesced in the Mather Paper Co. case, so that it is probable that the allocation of tax will be hereafter revised.

Case 11: In the case of the M Company there was a certificate of overassessment for 16*x* dollars for the fiscal year ended June 30, 1918. The taxpayer filed seven returns for this year, four under the 1917 law and three under the 1918 law. The bureau made an audit in which it allowed a small change in depreciation but 17*x* dollars for amortization. Employees' bonuses were based on a percentage of profits and were accrued as liabilities at the end of the year, though not paid until the succeeding year. These deductions were adjusted upon that basis. Late in 1917, to avoid double taxation, its — branch was separately incorporated, and the taxpayer sought to have the bureau ignore the corporate entity by having sales to the subsidiary regarded as consignments, through including goods shipped abroad in inventories instead of in sales. This the bureau rejected and no appeal has been filed on the deficiency set up for the fiscal 1919 year, to which the decrease in income would inure, if the taxpayer's contentions were conceded. Special assessment was allowed for the fiscal 1918 year under section 210 of the 1917 law and section 327 of the 1918 law, based largely on failure to capitalize intangibles at incorporation in 1904. The data sheets were investigated as to choice of comparatives, and the audit was approved.

Case 12: During this particular month I had a conference here in the case of the M Company involving two charges against B amounting to 217*x* dollars, deducted from 1917 net income. This case involves amounts generally larger than other cases in the department. Its invested capital lies somewhere in excess of 125,000*x* dollars. It is impossible to determine the true amount, for various reasons.

At the conference above mentioned sundry other issues were discussed, and additional data were requested and later filed. The parent company had some *y* subsidiaries, engaged in the same or closely related businesses, and there were small certificates of overassessment to various subsidiaries. The major certificate was to the parent, for 1917, in the amount of 221*x* dollars, but was later reduced (pursuant to ruling here) to 211*x* dollars and reported to the congressional Joint Committee on Internal Revenue Taxation in 1927. Major adjustments in the case involved paid-in surplus claimed of 29,126*x* dollars on assets acquired by the subsidiary N Company, at organization in — from the O Company, which claim was rejected in a memorandum by this office and is now involved in a suit pending in a district court; the proper treatment of intercompany interest; affiliations; so-called donations of sundry assets; contested claims for damages to plant and equipment and for services; the effect on invested capital of acquisition of subsidiary stocks at a discount; bond interest and discount; basis of determining gain or loss on land sales; losses; capital changes due to restatement of corporate surplus accounts, etc.; restoration of assets charged to expense in prior years; balancing of intercompany indebtedness accounts, etc. The audit as approved set up an excess-profits tax for 1917 of 851*x* dollars, but is subject to further reduction hereafter if the court suit is successful.

Case 13: This corporation engaged in the manufacture of munitions and before the United States entered the war had developed plants of great size and cost for the manufacture of supplies for foreign belligerents. Upon the entry of this country into the war, its plants were converted in part and supplemented by sundry additions. Its war work ceased soon after the armistice, but its peace-time activities required abandonment of many of the war-time facilities. Due to the fact that so many costs of plant were incurred prior to April 6, 1917, and therefore they were not subject to amortization, claim was made for deductions from gross income for loss of useful value. On assets acquired subsequent to April 6, 1917, there could have been prosecuted successfully a claim for technical amortization. The claim was thoroughly investigated by engineers and auditors in the field and in this city, and many briefs and exhibits, such as Government contracts and settlements, were submitted. The bureau held that claims against the Government were accruable in 1918, when contract deliveries were stopped, because expressly covered by existing contracts, although final settlements were not effected until after 1918. A deduction was allowed in 1918 for loss on a dividend distribution in securities at a lower market value

than the cost basis, in harmony with O. D. 262 (C. B. 1, 28, and A. R. R. 435, C. B. 4, 27). Another issue of major importance was the proper deduction for munitions taxes, according to the Supreme Court's decisions in the Anderson and Yale & Towne cases (T. D. 3839; 269 U. S. 422). Certificates of over-assessment were approved for years 1915-1919, inclusive, aggregating 300x dollars.

I might add, also, that during the month I attended the conference with the taxpayer's agents on the M Company case for 1918 and 1919, but this case was Attorney A's and was not disposed of by me. One other case was returned because incomplete.

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### ATTORNEY C

The following report involves cases considered during a month. During the month there were considered and disposed of seven cases. These 7 cases involved a total of 32 overassessments and involved overassessments totaling \$10,290,415.24. The cases considered by me during the month selected were not necessarily all finally disposed of in the general counsel's office during the same month.

#### *Case I.—Issues:*

- (1) Reorganization and merger.
- (2) Liquidations of subsidiary corporations.
- (3) Intangible value.

Twelve certificates of overassessment of the parent and subsidiaries were involved for the years 1912 to 1918, inclusive.

The A Company case for 1918 involved a determination of net income in the amount of 2,392x dollars and invested capital in the amount of 20,239x dollars. This determination of invested capital involves increase in capital totaling 5,043x dollars and decreases in capital totaling 1,409x dollars. The increases in capital and the decreases in capital involved a study of a number of issues and an examination of a large amount of written evidence respecting the issues. The following brief outline of the principal items which were investigated will illustrate the importance of the issues involved, the magnitude of the effect upon invested capital, and the difficulty in the comprehension of and decision on the issues.

(a) The A Company owned the stock of certain subsidiary companies which were liquidated in 1912 and 1913. There are a large number of decisions of the bureau relating to liquidations. The effect of decisions is that profit resulting from liquidations of subsidiary corporations is taxable income and that such taxable income resulting therefrom is includable in the surplus of the recipient. The study of liquidations involves particularly S. O. 131 (C. B. I-1, p. 18), and L. O. 1108 (C. B. III-1, p. 412). In making its original return the A Company did not include in its surplus the greater part of the profits on the dissolution of the subsidiary companies. These profits, which must be added to surplus and included in invested capital, amounted to 2,289x dollars in addition to the surplus shown on the original return. The consideration of this additional surplus involved a study of the balance sheets of the liquidated corporations, a consideration of the values in the property received on the liquidation, as well as the law issues relating to the right of inclusion of the

appreciation in property values of the liquidated subsidiaries at the time of their liquidation.

(b) The A Company made a number of arbitrary reductions in its good-will account totaling 1,387*x* dollars, principally at the dates of the sales of certain assets and the receipts of liquidation dividends from a subsidiary. Although the sales and the dividends resulted in large realized profits it failed to include them in its surplus account, but instead utilized these realizations of large profits to effect reductions in the book value of good will. The effect of these errors in the accounting practice was to reduce the account below the actual cost of the good will. Under the decision of the United States Supreme Court in *LaBelle Iron Works v. United States* (256 U. S. 377), the taxpayer was entitled to the actual cost of its good will and also to the profits on sales of assets as a part of invested capital. The restoration of the profits to surplus and the restoration of the good-will account to its proper basis involved a careful study of the balance sheets of the corporation.

(c) The A Company acquired substantially all the common stock of two predecessors, the B Company and the C Company. Later the A Company acquired the preferred stock of the two predecessor corporations. In purchasing this stock the taxpayer was compelled to pay 1,001*x* dollars in excess of the par value of the stock purchased. It erroneously treated this 1,001*x* dollars as a loss and reduced its earned surplus. In accordance with article 867 of Regulations 65 the property acquired must be valued at the price paid therefor and accordingly there will be no loss sustained. The restoration of this amount to invested capital involved a study of the balance sheets and the transactions and agreements leading up to the consolidation.

(d) There were numerous minor adjustments of errors in the taxpayer's accounts and tax returns, such as the adjustment of accrued assets and liabilities which caused an addition to invested capital of 13*x* dollars. Under section 326 (c) of the act of 1918 the taxpayer was required to deduct from invested capital a percentage thereof equal to the percentage which the amount of inadmissible assets is of the total amount of admissible and inadmissible assets. Corrections of the taxpayer's capital due to this section 326 (c) required consideration of the inadmissibles deduction. This revision of the inadmissibles deduction resulted in reduction of that deduction by the amount of 348*x* dollars, thereby similarly increasing the statutory invested capital. This adjustment required consideration of the inadmissibles of the corporation.

The decreases in statutory invested capital in the amount of 1,409*x* dollars involved consideration of the following five items:

(a) The taxpayer, the present A Company, is a continuation of the A Company under a new name. In — the A Company acquired more than 90 per cent of the outstanding shares of the B Company and the C Company. In accordance with the bureau's practice there was eliminated from invested capital the surpluses of the two companies whose stocks were acquired as of the date of acquisition. This resulted in a decrease in invested capital of 815*x* dollars.

(b) The taxpayer credited to surplus the value of certain stock dividends which it had received. Following the subsequent decisions in *Eisner v. Macomber* (252 U. S. 189), and in accordance with article 859, regulations 45, the stock dividends were eliminated from the

surplus account. This issue and decision resulted in a decrease in invested capital of  $304x$  dollars.

(c) The taxpayer issued certain dividends in scrip which it failed to deduct from invested capital in its original return. The bureau held that such dividends should be treated as the equivalent of cash and consequently should be deducted from invested capital. Article 1546 of regulations 45. The deduction on this account in invested capital was  $168x$  dollars.

(d) The taxpayer included in invested capital in its original return the values of certain stocks as they stood upon its books. Although these stocks were worth the amount stated on the books the taxpayer had acquired them at a lower price. The bureau eliminated the difference from invested capital, making a deduction of  $20x$  dollars.

(e) Prior to the profits-tax years the taxpayer transferred to the D Co. tangible assets, cash, and good will in exchange for  $200x$  dollars of its stock. The tangible assets so transferred were worth  $100x$  dollars, and the value of  $100x$  dollars was placed on the good will. The D Co. was included in a consolidated return with the A Co. The  $100x$  dollars good-will value was eliminated since this value was not proven.

The case necessitated a study of the right to affiliation of a number of subsidiary corporations, a study of a reorganization in —, another reorganization a few years later, and several liquidations. All of these issues were complicated and required a study of much evidence relating to the accounts of the corporation, transactions and agreements, and corporate resolutions resulting in the reorganizations and liquidations, and also many decisions relating to these transactions under the income and profits tax laws.

#### *Case II.—Issue:*

##### (1) Inventory.

#### AMOUNTS INVOLVED

1918-----	24x dollars
1919-----	81x dollars

This taxpayer at the end of the year 1916 discounted its inventory by the amount of  $50x$  dollars, at the end of 1917 by the amount of  $170x$  dollars, and at the end of 1918 by the amount of  $150x$  dollars. These discounts in inventory were made by the former management of the corporation and the discounts were made by application of a certain percentage, so that in effect there was created a reserve for depreciation of inventory. After this method of statement of the inventories up to December 31, 1918, there was a change in the management of the corporation, and at December 31, 1919, there was no percentage or arbitrary discount of the inventories. The revenue agents at two times investigated the books of the taxpayer, and the revenue agents at first were of the opinion that the taxpayer should not be permitted to revise the inventories for all of the years so as to place them on one consistent basis. On the last report the revenue agent came to a different conclusion and was of the opinion that it was proper to restore all of the inventories to their true original basis; that is, without application of any percentage discount at any periods from January 1, 1917, to December 31, 1919. The case involved a study of the taxpayer's right under all the circumstances

involved to a revision of all inventories for all of the profits tax years so that all of the profits tax years would be reported upon a consistent basis. The revision of inventory resulted in decreasing the cost of goods for 1917 about 120*x* dollars and increasing the income accordingly. It resulted in decreasing the income for 1918, 20*x* dollars. It resulted in decreasing the income for 1919, 150*x* dollars. This change in inventory resulted also in a change of statutory invested capital. After a study of the circumstances relating to the taking of the inventories and the decisions relating thereto, and the effect upon tax liability and the right of the Government to make additional assessments for any years involved, and the right of the taxpayer to overassessments for any of the years involved, it was decided that the taxpayer was entitled to a revision of all the inventories upon the one consistent basis.

*Case III.—Issue:*

- (1) The installment basis of accounting and report of income.

AMOUNTS INVOLVED

1918.....	51 <i>x</i> dollars.
1919.....	30 <i>x</i> dollars.

The taxpayer during the taxable year was a dealer in household furniture and conducted its business almost entirely upon the installment basis and sold its goods upon installment contracts.

By section 1208 of the Revenue Act of 1926 the provisions of section 212 (d) of the Revenue Act of 1926 were made retroactive so as to apply in the computation of income upon the installment basis for taxable years under the acts of 1916, 1917, 1918, 1921, and 1924, subject, however, to any bar occurring by the statutory limitation upon claims properly applicable as to any of the taxable years. T. D. 3921 promulgates rules for the computation of income on the installment basis under the installment provisions of the revenue act of 1926 and prescribes that no payment received in a taxable year shall be excluded in computing the amount of income to be returned for the taxable year on the ground that they were received under a sale, the total profit from which was returned as income during a taxable year or years prior to the change by the taxpayer to the installment basis of returning income.

The Income Tax Unit had prepared overassessments in this case in the total amount of 142*x* dollars for the three years 1918, 1919, and 1920. In the unit's preparation of those certificates of overassessment as first submitted to this office the unit had not included in income of any taxable year the amount of installment payments actually received in the taxable year when those installment payments were upon contracts the total profits from which was returned as income during a taxable year or years prior to the change by the taxpayer to the installment basis of returning income. After consideration of the circumstances relating to the taxpayer's change to installment basis and the taxpayer's brief and the revenue agent's reports and the schedules showing income of the taxpayer for each of the years involved, it was recommended that the unit make a further investigation of the profits realized upon the installment basis for each of the years 1918, 1919, and 1920, so as to ascertain definitely what profit was made upon cash collections in the years



1918, 1919, and 1920 upon contracts where the total profit was returned as income in years prior to change to the installment basis.

The unit, upon the recommendation made, eliminated the over-assessment for 1920 and found the overassessments for 1918 and 1919 to be 51*x* dollars and 30*x* dollars, respectively. The consideration of this case resulted in a saving of 61*x* dollars to the Government by reduction of the overassessments.

*Case IV.*—Issues:

- (1) Amortization.
- (2) Reserve for depreciation.

#### AMOUNTS INVOLVED

1919----- 141*x* dollars.

The taxpayer claimed amortization in the total amount of 46*x* dollars. A total amortization was allowed by the amortization engineers in the amount of 26*x* dollars upon amortizable costs in the total amount of 51*x* dollars. Of the total amortization allowed 20*x* dollars was allocated to and allowed for the year 1918, and 6*x* dollars was allowed for the year 1919. The amortization was allowed upon two classes of amortizable property, (1) amortization allowed upon facilities employed in production contributing to the prosecution of the war, and (2) amortization allowed upon cost of facilities not completed in time for use in production of articles contributing to the prosecution of the war. A study of the method by which the amortization engineers determined the percentage of residual value in use to be 60 per cent was necessary in this case. The amortization engineers in this case had determined the residual value in use percentage by an unusual method. The percentage of residual value in use was determined by application of a trend line established by the growth of the postwar commercial use of the plant over the period January 1, 1921, to December, 1922. The trend line resulted in the use of a postwar production of an amount which was considerably in excess of the production which had actually been demonstrated by the actual use of the steel plant involved after March 31, 1919. The residual value percentage as determined was, it appeared, somewhat larger than the percentage which would have been computed if the percentage had been determined by use of the actual facts rather than by facts determined by the application of a trend line. The method of computation of residual value involved the consideration of rulings relating to the determination of value in use and involved consideration of the facts in the taxpayer's case so as to ascertain whether or not the method which had been adopted by the amortization engineers in this case had resulted in undue advantage to the taxpayer or not. The case involved particularly a study of a decision of the Board of Tax Appeals in *re Manville Jenckes Co.*, 4 B. T. A., 765.

The case involved also a study of the taxpayer's reserve for depreciation with regard to the determination of statutory invested capital. The taxpayer had, in making its return for the year 1919, increased its depreciation reserve by the amount of 14*x* dollars over the depreciation taken on the books. This increase as made by the taxpayer in the depreciation reserve resulted in a decrease in statu-

tory invested capital for the purpose of the profits-tax return which was made by the taxpayer for the reason that the Income Tax Unit had in adjustments of prior years ordered this increase in the depreciation reserve and the resulting decrease in statutory invested capital. The Income Tax Unit, after reconsideration for the purpose of this 1919 year, had revised the depreciation reserve with the result that there was added to the book depreciation reserve as additional depreciation prior to January 1, 1919, the amount of 5*x* dollars. The depreciation reserve has thereby been decreased 8*x* dollars and statutory capital similarly increased over the adjustments as had been made in the audit of the prior years. In the consideration of this adjustment of the unit it was necessary to examine the balance sheets of the corporation and the briefs of the taxpayer relating to the depreciable plant of the taxpayer and such rulings as relate to depreciation reserve and adjustment of a taxpayer's plant accounts, particularly A. R. M. 106. (C. B. 4, 390.)

*Case V.—Issues:*

(1) Affiliation.

(2) Inventory.

The taxpayer is affiliated with a number of corporations for the taxable year. The principal question of affiliation related to the M Corporation. This corporation had been excluded for all of the years. The taxpayer prior to 1920 acquired about 50 per cent of the capital stock and the taxpayers, together with the minority stockholders, placed all of the capital stock of the M Corporation in trust with five trustees under a voting trust agreement for a period of five years. The trustees were five in number, two to be appointed by the taxpayer and two to be appointed by the minority stockholders of the M Corporation and the remaining one to be mutually agreed upon. The taxpayer did not under the trust agreement secure control of all the capital stock of the M Corporation, since two of the trustees at all times represented the minority stockholders. In the consideration of this affiliation issue it was necessary to consider the facts presented in the taxpayer's briefs relating to the ownership of stock and to consider the decisions of the office relating to the affiliation question, and particularly decisions of the Board of Tax Appeals in *Isse Koch & Co. (Inc.)*, 1 B. T. A. 267 and *In re Appeal of R. A. Tuttle Co.*, 1 B. T. A. 1219.

In computing the closing inventory for the year 1920 the taxpayer reduced the closing inventory by an amount of 100*x* dollars as an arbitrary discount. The report for the year 1920 was made upon the basis of closing inventory after deduction of this arbitrary reduction of 100*x* dollars. Upon audit of the 1920 return the bureau eliminated the 100*x* dollars deduction of closing inventory and thereby decreased the cost of goods sold for 1920 and increased net income for 1920 by a similar amount. In the determination of net income for the year 1921 the opening inventory for 1921 was increased by the amount of 100*x* dollars, since the opening inventory for the computation of cost of goods sold, as was the basis of the income reported for 1921, reflected also the 100*x* dollars arbitrary reduction. The opening inventory for 1921 was thereby made consistent with the closing inventory for 1920. This readjustment for the years 1920 and 1921 resulted in a restatement of the cost of goods sold and the income for

each of those years upon the correct basis under article 1582 of regulations 62.

*Case VI.—Issues:*

(1) Distribution of income of trust estates taxable under section 219.

(2) Dividends received from M Company, dividend distribution, and earnings available for distribution.

(3) Loss sustained.

Fourteen certificates of overassessment in favor of five individuals were involved. Additional taxes for three years against an estate were involved.

The certificates of overassessment to the individuals and the additional taxes to the estate resulted from a readjustment as between the individual beneficiaries and the trust estate. The individual beneficiaries had returned all the income on their returns, both that which had been in fact distributed to them and that which was undistributed by the trust estate.

B died in the year 1915, and left a will whereby after certain specific bequests he bequeathed all the rest of his property to certain trustees upon certain trusts mentioned in article 9 of his will. The manner in which the residual trust estate was to be divided or distributed depended upon the situation existing at the time of his death. At his death B left surviving him his wife, C, and more than one child, and the distribution of the residual trust estate was accordingly governed by certain articles of the will. According to this distribution, 2*x* per cent of the whole trust estate was devised absolutely to the testator's wife, C, and *x* was devised to the D Bank for the use of C, his wife. The remaining 60 per cent of the trust estate was directed to be held by the trustee for the benefit of each and all of the children and grandchildren per stirpes.

The 60 per cent of the estate which was directed to be held for the benefit of the children was distributable in part to each child or the child's children as the child became certain ages. The portion of the 60 per cent of the trust estate distributable to each male beneficiary was distributable in certain parts to him when he became certain ages and were so distributable absolutely to him. The portion of the 60 per cent which was distributable to each female beneficiary was distributable to her absolutely in certain parts as she became certain ages and was distributable to her in certain parts as she became certain ages indirectly as a trust to the D Bank for her benefit. The D Bank therefore became a trustee of separate trust estates for each female child beneficiary, and in accordance with another provision of the will the D Bank also became a trustee for a separate trust for C.

The net income of all the separate trusts held by the D Bank for the female beneficiaries was distributable in quarter-year payments to the respective beneficiaries. Since this net income from these separate trusts held by the D Bank was distributable without any question or condition the income from the separate trusts was taxable to the separate beneficiaries and were so taxed in the adjustment.

The trust estate held, however, in each year certain portions of the shares distributable to the male beneficiaries and certain portions of the shares distributable to the female beneficiaries, the corpus of which had not been distributed and the income of which was not

payable to the beneficiaries. The income of any part of each share from the time it was by will distributable to the beneficiaries was distributable to such beneficiaries, and this portion of the net income was accordingly taxable in each case to the beneficiary. As to the income upon the portion of the corpus of the trust estate which had not become distributable there was another question. The Income Tax Unit had considered that the entire income of all the parts of each child's share which had not become distributable as to the corpus was taxable as one entity. It was no doubt right that the net income of these portions of the corpus which had not become distributable was taxable either as one single trust entity apart from the individual beneficiary or that the net income of these undistributable portions of the corpus was taxable as income of separate trusts as to these undistributable portions of the corpus as to each beneficiary. The case was adjusted so that all of those undistributable portions were taxable as one trust estate. This holding was most favorable to the Government, and since it was doubtful that any other holding would be correct the case was finally approved upon that basis.

The foregoing will indicate to some extent the complicated nature of the will by which B bequeathed his estate to his heirs. There were many provisions in the will, some of which would become effective in case of the happening of certain contingencies and other of which would become effective in case of the happening of other contingencies. It was extremely difficult to analyze the will so as to comprehend what portions were effective under the circumstances which actually transpired. It was extremely difficult to analyze the will so as to correctly interpret it so as to give effect to all of its provisions. The will was one of the very long wills of one of the very wealthy men of the United States. After consideration of all the circumstances which actually transpired and all the provisions of the will relating to the creation of the various trusts, it was necessary to correctly apply the provisions of section 219 of the act of 1918 and the similar provisions of the act of 1921, and to study and interpret the many decisions of the Bureau of Internal Revenue relating to said section 219 so as to arrive at the proper result with regard to the taxability of the income from the various portions of the estate as between beneficiaries and trust estate. There were an unusual number of provisions regarding the trusts created.

There was also considered in this case a loss incurred by C. C became a stockholder in the F Company. The F Company published the — and this publication did not prove to be a paying venture. The corporation was dissolved and discontinued business and C took over the publication as an individual. The loss she incurred was large and it was necessary to consider the time or the year within which she should be allowed a deduction for the loss.

It was in this case necessary to consider an analysis of surplus of the M Company relating to distributions made to stockholders of the M Company. It was material to correctly analyze or understand the surplus of M Company as the surplus was at March 1, 1913, and as it had been accumulated as of March 1, 1913, up to the taxable years. The taxpayer claimed that large distributions which were made by M Company in the taxable years were distributions from earnings which had been accumulated prior to March 1, 1913, and that the accumulations prior to March 1, 1913, were accordingly

not taxable. The analysis of surplus was involved and lengthy and contained a number of adjustments to the surplus which had to be carefully analyzed so as to understand their effect upon the statement of earnings accumulated after March 1, 1913. The taxpayer and the revenue agent had presented considerable data regarding the accumulation of earnings prior to and after March 1, 1913, which data required considerable time for examination.

#### Case VII.—Issues:

- (1) Interpretation of the will of P.
- (2) Deductibility of State transfer taxes.

#### AMOUNT INVOLVED

Overassessment----- *x* dollars

The will of P was the will of a wealthy man and devised a large amount of property to his heirs and was rather complicated, although not of the same character as the will of B above discussed in Case VI. In consideration of this will it was also necessary to analyze the will so as to comprehend the effect of the various provisions and the creation of rights in beneficiaries so as to properly apply to the income in the case of this estate and beneficiaries the provisions relating to estates and trustees of the act of 1916 as amended by the act of 1917.

The principal issue involved in the case, however, was the allowance of a deduction of transfer tax in the amount of *x* dollars. This case had been under consideration at various times before the United States Supreme Court had rendered a decision which was final regarding the right to deduction by estates of New York transfer taxes. In such considerations prior to that decision of the United States Supreme Court it had been necessary to consider the large number of decisions of the bureau relating to the deduction of transfer taxes and also a number of decisions of the State of New York relating to the character of the New York transfer tax, and also various Federal court decisions which had considered the New York transfer tax. The right to a deduction of this transfer tax paid to the State of New York did not become free from doubt until the decision of the United States Supreme Court in *Keith v. Johnson*. In accordance with the decision of the United States Supreme Court therein the transfer tax paid to the State of New York was allowed.

#### IN GENERAL

In the above discussion of the various cases considered during a month in the claims review the principal issues which were involved in the cases were outlined. It should be noted, however, that in the consideration of these claims cases it is generally uncertain what are the issues which should be especially considered until the case has been carefully studied and until all evidence in the file of the case, including all revenue agent's reports and taxpayer's briefs have been carefully studied. The taxpayer's briefs may and may not present the real issue. In the claims review cases it is necessary to discover

if possible what may be the errors, if any, which have been made in the case, whatever those errors may be. The examination of the case for the purpose of discovery of such errors as there may be, particularly such errors as may result unfavorably to the Government, is of great importance and is the initial procedure in each case which is undertaken. After the case has been so examined for the purpose of discovery of any errors which there might be, such issues as may have been raised by the taxpayer or the unit, or such new issues as may have been discovered, must then be considered, first with regard to the facts which have been established and, second, with regard to the provisions of the law relating to the facts and the decisions of the bureau and the decisions of the courts and the Board of Tax Appeals relating to such facts or issues. The evidence presented and accumulated in the progress of the audit of the case of the nature of those which are involved is usually very voluminous and requires considerable time for examination for the purposes which are above indicated.

### PENAL DIVISION

The work of this division may be described as follows:

(1) Preparation of opinions advising the commissioner and the heads of the various units of the bureau as to liability for fraud, negligence, or delinquency penalties in cases where protests have been filed by taxpayers against proposed assessment of penalties by one of the accounting units or where an opinion as to assertion of penalties has been requested by any officer or unit of the bureau; (2) preparation for reference to United States attorneys for the purpose of prosecution of criminal cases arising under the internal-revenue laws or applicable provisions of the criminal laws of the United States; (3) assisting in such criminal prosecutions by furnishing evidence for grand jury and court proceedings, preparing indictments and briefs, and participating in arguments, trials, and appeals at the request of the Department of Justice or the United States attorneys; (4) preparation of opinions, letters of instructions, and answers to inquiries from local and field officers of the bureau regarding conduct of tax examinations, special investigations, and general matters relating to violations by taxpayers of Federal penal statutes; (5) recommending acceptance or rejection by the commissioner of offers in compromise made by taxpayers charged with civil penalties or violations of Federal penal statutes; and (6) consideration of claims for reward under section 3463 of the Revised Statutes.

When taxpayers protest against the proposed assertion of penalties, of whatever nature, it is the practice of the division to grant the taxpayers and their qualified representatives hearings, at which they are entitled to present evidence and arguments with briefs in support thereof. Written opinions are then prepared, in which are stated the pertinent facts, the law involved, and the conclusions reached, with the reasons therefor. These opinions, over the general counsel's signature, are sent to the appropriate bureau officer. If no hearing is requested or desired, cases are considered and decided upon the evidence in the respective files.

There were 679 cases (without regard to tax years) pending in the division on June 30, 1927. These cases are classified for reference as (1) "interpretative cases" and (2) "law cases." These classifications are in turn grouped as (1) "income-tax cases" and (2) "miscellaneous tax cases." The "interpretative cases" are those referred to the office of the general counsel by the unit for recommendation as to percentage penalties, for consideration as to whether criminal proceedings should be instituted, and for rulings on questions of law. "Law cases" are those pending for consideration of compromise offers where penalties are involved, and cases in suit—that is, pending in the courts on indictments or otherwise. The "miscellaneous tax cases" are those involving special taxes, other than income taxes, such as estate taxes, gift taxes, tobacco taxes, admission and excise taxes. The following table shows the "interpretative income-tax cases" for the years 1917 to 1926, inclusive, pending in the penal division June 30, 1927, classified by tax years, amounts, and questions involved:

*"Interpretative" income-tax cases pending in penal division on June 30, 1927*

Year involved	Tax amounts involved						Tax years involved				Total tax years in- volved
	\$100 or less	\$101 to \$500	\$501 to \$1,000	\$1,001 to \$10,000	\$10,001 to \$50,000	\$50,001 or over	Penalties for—			Questions other than penal- ties	
							Fraud	Negli- gence	Delin- quency		
1917.....	0	4	1	7	8	11	28	1	0	2	31
1918.....	2	6	2	14	14	18	47	1	1	7	56
1919.....	2	8	4	26	21	19	73	1	1	5	80
1920.....	6	11	6	33	49	21	110	0	7	9	126
1921.....	8	13	11	42	21	18	96	0	8	9	113
1922.....	11	20	16	51	35	23	135	2	11	8	156
1923.....	21	29	20	48	39	19	154	2	10	10	176
1924.....	23	21	20	51	25	25	145	1	14	5	165
1925.....	11	15	7	44	12	15	101	0	3	0	104
1926.....	0	0	2	0	0	1	2	0	1	0	3
Total...	84	127	89	316	224	170	891	8	56	55	1,010

The larger part of the "interpretative income-tax cases" pending in the penal division were referred by the unit under the provisions of T. D. 3867 for recommendation as to whether 60-day letters should notify taxpayers the percentage penalty for fraud, negligence, or delinquency had been incurred. The rest of the cases, under the caption "Questions other than penalties," consist chiefly of cases referred for consideration of pure questions of law, or as to whether criminal proceedings should be instituted.

The following table shows the volume of work handled in the division during the past four fiscal years. The number of cases given are without regard to tax years or classification:

	1924	1925	1926	1927
On hand at beginning of fiscal year.....	597	956	1,409	767
Received during year.....	1,216	1,315	639	1,076
Closed during year.....	857	862	1,281	1,164
On hand at end of year.....	956	1,409	767	679

## ATTORNEY A

At this time I have on hand 34 cases, involving \$13,766,101.14, which may be classified as follows:

Criminal cases awaiting trial-----	4
Criminal case awaiting hearing on defendant's plea of immunity-----	1
Case pending court's decision-----	1
Cases for presentation to court for order to produce books for examination-----	2
Cases for consideration of criminal prosecution-----	4
For collection of taxes and penalties after conviction in a criminal prosecution-----	1
Offers in compromise (four) <sup>1</sup> -----	1
For consideration of fraud penalties-----	16
Miscellaneous-----	4
	<hr/> 34

Amount involved----- \$13,766,101.14

The years and the number of case-years involved are as follows:

Years	Number	Years	Number
1915-----	1	1922-----	21
1917-----	9	1923-----	18
1918-----	12	1924-----	12
1919-----	15	1925-----	4
1920-----	29		<hr/> 142
1921-----	21		

The questions involved in the foregoing classification of cases, and the nature of the work in connection therewith, may be stated generally as follows:

*Criminal cases awaiting trial (4).*—In the four cases under this classification consideration was originally given to the advisability of instituting criminal proceedings. This involved a consideration of all the facts and circumstances in each case, the weight and admissibility of evidence available to the Government, the probability of successful prosecution, whether or not conviction of the taxpayers would have a salutary effect in their respective communities, and the general preliminary questions to be determined in connection with any criminal prosecution. Indictments were prepared and forwarded to the respective United States attorneys, with letters outlining the issues, the law, and such further information as was deemed necessary to bring to the special attention of the United States attorney. The examining agents were instructed to submit to the United States attorneys the evidence they had developed and to cooperate in the preparation of the cases for trial by interviewing such additional witnesses as the United States attorneys deemed necessary, securing additional evidence, and to hold themselves in readiness to testify at the trial. Certified photostat copies of all documentary evidence were prepared and forwarded to the United States attorneys for use before the grand jury and at the trial. Since the indictments were returned, offers in compromise of both civil and criminal liabilities have been submitted by the defendants in each of the four cases. One of such offers has been considered and rejected, while the other three are still pending. Consideration of the acceptance or rejection of offers in compromise in this class of cases usually involves a reconsideration of the advisability of proceeding with the prosecution in

<sup>1</sup> Three offers pending in criminal cases awaiting trial not included here.



the light of such additional information as may have been subsequently developed by the agents, or submitted by defendant's counsel. The pending offers are awaiting results of further investigation by the field agents. In one of the cases the indictments as returned by the grand jury were found to be defective, and it was found necessary to obtain new indictments.

After cases are referred to the United States attorney for prosecution and indictments have been returned, the attorney handling the case in this office must be in readiness to assist at the trial when called upon and to prepare the necessary briefs on preliminary motions and pleas and, in case of appeal, to prepare the appeal brief. It frequently happens that a criminal case is taken to the Supreme Court by writ of certiorari, in which case the brief in support of the application for the writ, and, when granted, the brief in support of the Government's case are prepared in this office in cooperation with the Department of Justice.

*Criminal case awaiting further hearing on defendant's plea of immunity (1).*—In this case the defendant has been indicted for filing a false and fraudulent income-tax return and for perjury in connection therewith. The case involved all the preliminary consideration mentioned in the foregoing paragraph. The defendant filed demurrers and motions to quash the indictments, which were overruled and denied by the court. The defendant has now filed a "plea of immunity," in which he claims immunity from prosecution on the ground that the evidence which enabled the Government to obtain the indictments was secured through the examination of his books and records, in violation of his rights with respect to unreasonable searches and seizures and compulsory self-incrimination under the fourth and fifth amendments to the Constitution. The United States attorney has moved the court to strike defendant's plea. Briefs were requested by the court and this office was called upon by the United States attorney to prepare the brief in support of the motion to strike. The issue raised by the plea involves the right of the Government to prosecute taxpayers for fraud where the evidence of such fraud has been discovered incidental to an examination of the taxpayer's books and records made for the purpose of verifying a return filed, or to discover his correct tax liability. The case is awaiting hearing on the plea and motion. The United States attorney has requested that the attorney handling the case in this office attend at such hearing and present the Government's case on the motion, and, if defendant's plea is dismissed, to assist at the trial of the case.

*Case pending court's decision (1).*—This case is a somewhat different phase of the same question raised by the defendant's plea in the preceding case. In this case the revenue agents were instructed to examine the taxpayer's books and records to verify returns filed by him. He refused to permit such examination on the ground that it might incriminate him. Revenue agents' subpoenas were disregarded and application was thereafter made to the Federal district court for an order directing the defendant to produce his books and records for examination. The defendant moved the court to deny the Government's application and on argument the court's decision was withheld and briefs requested. Prior to the hearing, the United States attorney called upon this office for a memorandum brief, the

preparation of which involved considerable research. Following the hearing, a further brief was requested by the United States attorney to meet the defendant's contentions, which has been prepared and forwarded. The case is now pending before the court for decision. The issues raised involve the right of the Government to verify a taxpayer's returns as filed by the examination of his books and records, over his objection that such an examination is an unreasonable search and seizure and compels him to incriminate himself, in violation of his rights under the fourth and fifth amendments to the Constitution.

*Cases for presentation to court for order to produce books for examination (2).*—One of these cases involves an individual and the other a corporation. In the case of the individual a request by revenue agents for permission to examine his books and records to verify his return was denied, and agents' subpoenas since issued have been disregarded by the taxpayer. The taxpayer in this case was a saloon keeper prior to the adoption of the eighteenth amendment and passage of the prohibition act, since which time he has conducted a soft-drink saloon or roadhouse. His place of business has been closed under padlock injunctions for one year each on two occasions, but is again open for business. Proceedings for contempt of court are pending against the taxpayer for violation of an injunction under the prohibition act, which case is on call in the district court awaiting trial and disposition. At the present time, the case before this office involves consideration of the advisability of applying to the Federal court for an order directing the taxpayer to produce his books for examination, over his objection that to do so will incriminate him, in view of a decision by one of the Federal courts in New York denying such an order in a case where the defendant at the time was under indictment in the District of Columbia for conspiracy to defraud the Government in connection with war contracts. In that case the court refused to compel the defendant to produce his books during the pendency of the criminal case in the District of Columbia, without prejudice to the Government's right of inspection after such case had been disposed of. The other case is that of a corporation refusing to permit the examination of its books and records and involves the question of whether or not a corporation may avail itself of the privileges of the fourth and fifth amendments.

*Cases for consideration of criminal prosecution (4).*—The cases under this classification involve the usual questions as to the advisability of instituting criminal proceedings. In three of the cases the charge is willful evasion of income taxes and the filing of false and fraudulent returns. One of the cases presents a complicated set of circumstances involving a banker who was also engaged in several other businesses. Investigations have been completed by agents in each of the cases, as a result of which considerable evidence of fraud has been accumulated. One of the cases presents the question whether or not accountants or enrolled agents who furnish advice to taxpayers with respect to the making out of their returns and who receive from such taxpayers the amount of money due to the Government under the returns as prepared, with the understanding that they will pay it over to the collector of internal revenue, may be prosecuted under the internal revenue law, where they embezzle such moneys from their clients and fail to make the payments to the collector.

*For collection of taxes and penalties after conviction in a criminal prosecution (1).*—In this case the defendant was convicted of willful failure to file a return and at present is serving sentence. A large amount of taxes and penalties have been assessed against him and the case is pending in this office for the purpose of effecting collection.

*Offers in compromise (1).*—In the one case listed under this classification the taxpayer has been convicted of tax evasion and has served a sentence. A large amount of taxes and penalties assessed against him are outstanding, and the collector has filed liens on numerous pieces of property. On one piece of real estate the taxpayer had given a mortgage. The mortgage has been foreclosed and the mortgagee has submitted an offer of compromise in order to remove the Government's tax lien from the property in question. The case involves consideration of the advisability of accepting or rejecting such offer. Three other offers in compromise are pending in connection with criminal cases awaiting trial, which are discussed under that heading.

*For consideration of fraud penalties (16).*—This class of cases involves a consideration of evidence obtained by revenue agents or collectors to determine whether or not the civil fraud penalties should be assessed against the taxpayers. Determination of the question requires a full consideration of all the facts and circumstances, the liability of the taxpayers to the proposed additional assessments, and whether or not understatements in their returns were willful. Also, the sufficiency and weight of the evidence indicating fraud must be considered to determine whether or not the charge can be sustained.

*Miscellaneous (4).*—In three of the cases under this classification the questions presented are all in connection with the collection of taxes and penalties that have been assessed pursuant to opinions rendered by this division. In one case there is presented the question whether or not assessments should be made against a transferee of the taxpayer under the provisions of section 230. The fourth case under this classification did not involve the case of any taxpayer, but called for consideration of the bureau's policy with respect to offers in compromise of penalty and interest liabilities, and the preparation of a comprehensive memorandum covering all phases of such offers in compromise.

*Other questions involved.*—In addition to the question of whether or not fraud penalties should be asserted in the foregoing 16 cases, there are numerous other questions of law involved, some of which are as follows:

*Colorable gifts.*—In several of the cases gifts were made by the taxpayer to members of his family immediately prior to the sale of the property comprising the gift, for the obvious purpose of escaping tax liability on the profit that would be realized by the taxpayer from the sale, based upon the cost to him of such property. In such cases, if the gifts are bona fide, no profit results to the donee because the cost of the property to the donee is its value as of the date of gift, which usually is only a day or two prior to the sale and, therefore, is measured by the selling price. The legality of such gifts is presented in the cases where they occur.

*Trusts.*—Bona fides of trusts created by taxpayer for his children, the taxpayer being the trustee and as creator having reserved to himself the right of revocation and the right as trustee to distribute and expend the income for his children's benefit in such manner and amounts as he might determine, and to reinvest such part of the income as he considers advisable. The law of taxpayer's State places legal responsibility upon him as parent to support and educate his children.

*Reorganization.*—Taxpayers were majority stockholders of a large corporation, some of their stock having been acquired prior to March 1, 1913, by purchase and by gift, and some acquired subsequent to that date by gift, purchase, and stock dividends. In a reorganization a second new corporation was created. Taxpayers sold their stock in the first corporation, receiving in exchange cash and stock of the new corporation. Complicated questions are presented involving the reorganization and computation of profits realized on the sale of stock, and as to what part of such profits may properly be ascribed to the period prior to March 1, 1913.

*Dividends.*—Five individuals are sole stockholders of corporation A. Corporation A owns all the stock of corporation B, and corporation B owns all the stock of corporation C. A and C sold coal lands for cash. After the sale, the assets of the corporations were almost wholly liquid. No dividends were declared. The five stockholders of corporation A, who were also directors, held the necessary meetings at which resolutions were adopted authorizing corporations A and C to loan a large amount of cash to the five individuals on demand notes. The loans were treated as dividends by the Income Tax Unit and additional taxes assessed accordingly. Taxpayers contend the transactions were bona fide loans, made with full legal formality. Whether or not the transactions were bona fide loans or taxable dividends is the question presented. If the transactions are held to be loans and not dividends, the case presents the further question whether or not corporation A should be assessed under section 220.

*Liquidating dividends.*—Whether or not the March 1, 1913, value of corporate assets distributed upon liquidation in 1919 was greater or less than the value at date of distribution. Whether the March 1, 1913, value is the correct basis for computing profit realized from the liquidation, or whether cost basis measured by original investment should be used.

*Losses.*—Whether or not a taxpayer may take a loss in the amount of the original purchase price of an oil royalty where dry holes were drilled around the property, condemning it for oil purposes, but where the taxpayer has not abandoned the lease or royalty contract.

Allowance of losses claimed on notes of two individuals who were insolvent at the close of 1920, the notes not being written off and no steps taken to enforce collection, and where the individuals voluntarily transferred to the taxpayer a lease or royalty interest considered by them to be worthless, but which subsequently became valuable and has not been abandoned by taxpayer.

Whether or not taxpayer operated a farm for profit or as a hobby and for pleasure; deductibility of losses sustained on the farm.

*Income.*—Whether or not an agent realizes taxable income where he receives secret commissions on contracts let for his principal, it being conceded that the agent has only the bare legal title thereto and is subject to the contingent liability of reimbursing his principal if discovered.

Taxpayer and wife, in partnership, as tax consultants, owned contracts for services to clients. A new corporation was created and the contracts assigned to the corporation in exchange for paid-up stock. As the fees became due they were paid to the corporation. The taxpayer and his wife reported no taxable income therefrom, nor did the corporation. The case presents the question of the taxability of this transaction and who is liable therefor.

Taxpayer as president of a corporation, and practically sole owner, made continued withdrawals therefrom over a period of years, no dividends ever being declared. His withdrawals were carried as accounts receivable by the corporation. A stock dividend was declared by which the president received stock approximately equal to his withdrawals. He returned this stock to the corporation in cancellation of his indebtedness and the stock was then retired by the corporation. The effect of the transaction was that the taxpayer received funds from the corporation which he failed to report. Taxpayer contends the return by him of stock to the corporation was a sale and that his profits therefrom, if any, should be measured by the value of the stock at the date of sale and the amount received therefor. Question, taxability of the transaction.

#### A TYPICAL MONTH'S WORK

The month of April, 1927, was selected as the month to be used by each of the attorneys submitting this report in outlining the nature

of the work performed by the attorney during a typical month. There is much in the nature of informal conferences with attorneys, the head of the division, and with revenue agents that is not disclosed by the records and, therefore, can not be covered herein.

For the month of April, 1927, the number of cases on hand at the beginning of the month, received during the month, and closed or transferred by me were as follows:

Cases on hand at beginning of month-----	45
Received during month-----	3
	<hr/> 48
Closed during month-----	2
Transferred-----	10
	<hr/> 12

On hand at end of month-----	36
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Almost the entire month of April was devoted to the reading of cases and research work in connection with the preparation of a brief in support of the Government's motion to strike the defendant's plea of immunity filed in the criminal case described in the first part of this report. The importance of the question involved and its nature were such as to require a most thorough consideration. All of the revenue laws, customs and internal, from the First Congress down to the revision of the statutes in 1874, so far as they related to the right of the Government to compel taxpayers to keep books subject to examination by Government agents, and the decided cases thereunder, were considered. The numerous decisions under the fourth and fifth amendments since the revision of the statutes likewise were studied.

In addition to the foregoing, the office records show that memoranda and letters were written as follows:

Memoranda (general)-----	11
Memoranda (closing)-----	2
Memoranda (informal)-----	4
Memoranda (transferring cases)-----	10
Formal letters-----	5

The foregoing office work may be described in general as follows:

*Memoranda (general).*—These memoranda consist of communications to the Income Tax Unit, Intelligence Unit, and collectors with respect to offers in compromise, further investigation required in certain cases, or outlining certain action to be taken. Also included are review memoranda covering opinions of other attorneys submitted to me for review, some of which are quite detailed. The memoranda covered by this classification in general are not long, two or three pages on the average. Those memoranda calling for further investigation by field agents recite in detail the facts already disclosed by the record and outline to the agents the angles desired to be followed out in the reexamination.

*Memoranda (closing).*—These memoranda consist of a statement of the facts in the case, the law, and the conclusions reached. While they were not long, they required careful consideration of the issues, since they represent the opinion of the General Counsel thereon.

*Memoranda (informal).*—These memoranda consist of informal office memoranda, usually short, one-half page or less, calling for the

preparation of certified photostat copies of documents, and memoranda transmitting copies of other correspondence.

*Memoranda (transferring cases).*—These memoranda consist of short descriptive statements of the cases being transferred to enable the head of the division to determine to whom each case should be reassigned. These memoranda usually were about one-half page in length.

*Formal letters.*—This correspondence consisted of letters prepared for the signature of the Commissioner of Internal Revenue, more or less technical, and requiring care in their preparation. They averaged from one to three pages in length.

No formal conferences were scheduled or held during the month of April.

### ATTORNEY B

OCTOBER 5, 1927.

The 66 cases assigned to me involve a total of \$12,309,861.10. While more than one question under the headings indicated occasionally appears in each case they may be generally classified as follows:

Table No. 1

For consideration of criminal prosecution.....	25
Awaiting trial.....	3
Referred to United States attorney.....	1
Offers in compromise.....	8
For consideration of fraud penalties.....	43
For consideration of delinquency penalties.....	14
Associated cases.....	6
Consideration of making transferee assessment.....	3
Claims for refund.....	2
Claims in abatement.....	1
Special cases.....	6

Table No. 2

These cases involve the years in number as indicated below:

Year	Number	Year	Number
1917.....	5	1922.....	35
1918.....	14	1923.....	42
1919.....	15	1924.....	44
1920.....	30	1925.....	19
1921.....	32	1926.....	4

In explanation of Table No. 1, the following information may be noted:

*Consideration of criminal prosecution.*—Involved under this heading are the following factors:

(1) Age, appearance, reputation, marital, family, and educational status of the taxpayer.

(2) The amount involved.

(3) Bias or prejudice of witnesses.

(4) Sufficiency of the evidence.

(5) Effect of criminal prosecution—

(a) On individual.

(b) On public in general.

(6) Likelihood of obtaining a conviction.

*Awaiting trial.*—These cases have been referred to the United States attorney, indictments have been obtained, and the cases are awaiting their turn on the trial calendar. Attorneys must hold themselves in readiness to appear and assist the United States attorney in preparation and trial of the case.

*Referred to United States attorney.*—Under this heading are cases wherein indictments for use or assistance of the United States attorney have been prepared and forwarded with photostatic copies of necessary evidence and a letter detailing important features of the cases. Indictments have not yet, however, been returned or the cases have not yet been presented to the grand jury.

*Offers in compromise.*—An insolvent taxpayer or one who will become insolvent if required to pay the full amount of tax and penalty assessed may submit an offer in compromise of his liability. These cases require a careful examination of the financial statement of the taxpayer's assets. Often supplemental reports from special agents of the intelligence unit or revenue agents are obtained. Consideration of the taxpayer's age, earning capacity, number of persons dependent upon him for livelihood, and his prospects of earning future taxable income require careful study before determination of the advisability of acceptance or rejection of offers in compromise.

*Consideration of fraud penalties.*—This question arises where it is alleged that false and fraudulent returns have been filed or that income has been willfully understated. Here the question of intent is of primary importance. Most of the factors enumerated under the heading of "Consideration of criminal prosecution" arise in determining intent and the assertion of the fraud penalty. Often the fraud penalty is alone the punishment of the taxpayer for filing a false and fraudulent return as, for instance, where the evidence is insufficient to warrant criminal prosecution.

*Delinquency penalties.*—These penalties are asserted in cases where the taxpayer fails to file a return of his income within the time provided by law and is unable to show reasonable cause for such failure.

*Associated cases.*—These are cases in which examinations have been made in connection with other cases and where no additional tax has been found to be due or penalty asserted in the case so classed.

*Consideration of transferee assessments.*—Here a study of transfers of real or personal property of the taxpayer made after investigation of his tax liability has been instituted or after assessments have been made is involved. Property is often placed in the name of a relative or associate of the taxpayer to evade payment of tax on the income represented. The advisability of assessing the tax against these third persons must be determined in this class of cases.

*Claims for refunds.*—Occasionally a tax assessed has been paid to avoid a penalty for delinquency or negligence and the taxpayer asserts what he considers may be meritorious reasons for a return of the amount or a portion of the amount so paid.

*Claims in abatement.*—Where a claim in abatement has been filed by a taxpayer a decision as to the merit or lack of merit of the contentions of the taxpayer must be made in order to formulate a

decision as to whether or not the claim should be allowed and the tax abated in whole or in part.

*Special cases.*—The six cases listed under this heading do not fall within the headings otherwise indicated in Table No. 1, but require an opinion with reference to a special state of facts. The questions involved will be included in the following list of some of the problems which arise in the cases assigned to me, viz:

In one case an opinion is requested as to whether or not "loan sharks" throughout the country are liable for criminal prosecution and fraud penalty for failure to report usurious interest received on small loans. This involves a study of various State usury laws. In some jurisdictions the borrower has a right of action against the "loan shark" to recover back the interest paid in excess of that allowed by law. The question of when this usurious interest becomes income to the "loan shark" and is taxable as such must be determined.

Where neither husband nor wife filed either a separate or a joint return, may the separate property of the wife be sold to satisfy a tax jointly assessed against the husband and wife where no income has been claimed to have been earned by the wife and in a State where she may own property free of control by the husband?

Where a joint return has been filed by the husband, ratified by the wife, may her separate property be sold to satisfy the tax assessed against the husband where the tax on the wife's income has been fully paid?

Where a brother (A) of the taxpayer (B) testifies at trial for filing false returns by taxpayer (B) that property, the income of which has been taxed as owned by taxpayer, is in fact not taxpayer's but his (A's), should a transferee assessment under section 280 or a direct assessment be made against the brother, based on his testimony at the trial?

Where a bootlegger taxpayer arranges with a deputy collector for assessment based on 20 per cent of his total bank deposits as profit and that a 25 per cent deficiency penalty should be paid on that basis, does payment under these circumstances constitute in fact a compromise of his civil and criminal liabilities for these years?

Do certain activities of "A" in a northern city cause him to be considered a partner in a firm of Florida real-estate operators with which he later became associated in that State. If so, when did the partnership relation begin and when may he be taxed with a share of the profits of the partnership?

Where officers of a corporation divert and divide profits of the corporation, does the method employed and the fact that a majority of the stockholders participated in the division of these profits justify the corporation in deducting these sums as embezzled funds? Are these amounts taxable to the individuals?

Should the fraud penalty be asserted as to an estate where executors answer questions on Form 706 (estate tax return), which require an expression of their opinion as to transfers, creation of trusts, distributions, and gifts made by testator prior to his death?

Were gifts aggregating \$1,800,000 made during an eight-year period prior to death made in contemplation of death? In other words, was an attempt made to break up the assets of the estate to evade the estate tax? The age, condition of health, daily habits, and plans



of the testator become important items for consideration in determining this question.

Where retroactive rebates on a corporation's contract to furnish logs were paid to the president of a mill company and by him distributed as bonuses to employee stockholders without entry on the books of the company, and these amounts were indicated on their individual returns, was there intent to evade the tax due on these sums by the corporation?

In a number of cases the books of the taxpayer have been manipulated, excessive salaries have been paid to officers of a corporation, or illegal dividends have been paid and charges entered on the books through the medium of padded pay rolls and expense accounts, or the books may indicate the cost of merchandise as greatly in excess of the amount actually paid in order to reduce surplus.

*A typical month's work—April, 1927*

Cases on hand first of month.....	59
Cases received during month.....	3
Total.....	62
Cases closed during month (1 transferred).....	7
On hand at end of month.....	55
Memoranda:	
(a) General.....	13
(b) Transfer.....	1
(c) Closing.....	6
Conferences attended:	
(a) In unit.....	2
(b) In general counsel's office.....	3
Conference reports.....	5
Letters.....	5

The above table does not fairly portray the work of an attorney for any one month. It is apparent that much time must be given to the preparation and analysis of cases wherein conferences are to be held. Particularly is this so where hearings are requested in cases in which criminal prosecution is contemplated and the taxpayer appears personally. Important information bearing on prosecution phases of the case may be elicited, and thorough familiarity with the facts is essential in order that a guilty taxpayer may not learn just what information the Government has and thus be enabled to procure or purchase evidence or testimony which will defeat the Government's case. This is particularly true in what are commonly called "bootleg cases."

Stenographic notes are often taken in cases of this character which must be then summarized and included in a conference report. One conference of this type, in the above table, required the better part of five days. Obviously representatives of the Government spent a great deal of time outside of regular office hours discussing points which might arise and planning the following day's work. The file in this case alone is nearly 2 feet thick.

*Letters.*—Where cases are pending in this office letters from collectors and representatives of the taxpayer relative thereto are referred to the attorney to whom the case is assigned for preparation of replies.

*Memoranda*—(a) *General*.—Under this heading are requests for files, photostatic copies of records, transmittal of memoranda, requests to the special intelligence unit for further data and supplemental reports. (b) *A transfer memorandum* consists of a brief statement of the case in order that it may be reassigned to another attorney. (c) *Closing memoranda*. Under this classification are memoranda which include an abstract of the facts in a given case, the legal questions involved, the decision arrived at together with the reasons therefor. Generally speaking, these memoranda are comparable to the written decisions made by a court in deciding a case after a trial. When approved these memoranda close out the case so far as this office is concerned unless again referred for opinion on some question which thereafter arises.

## COMMENT

In addition to the work heretofore outlined it is worthy of note that no record is kept of informal conferences with revenue agents, special agents of the Intelligence Unit, and representatives of the Income Tax Unit which necessarily require considerable time.

Obviously a lawyer must keep pace with current court decisions, decisions of the Board of Tax Appeals, and bureau mimeographs, and he must spend hours in the law library. This effort is, of course, recorded only between the lines of the work outlined in this report.

## ATTORNEY C

At this time the records disclose that I have on hand 62 cases, involving \$14,350,188.11, roughly classified as follows:

Criminal proceedings pending, awaiting trial.....	21
Equity suits pending, awaiting trial.....	7
For consideration of criminal prosecution.....	11
For consideration of penalties (exclusive of criminal prosecution).....	5
Offers in compromise.....	7
Referred to United States attorney for prosecution.....	1
Miscellaneous cases.....	7
Associated cases.....	3
Total.....	62

Amount involved, \$14,350,188.11.

The years involved are as follows:

Year	Number	Year	Number
1915.....	1	1922.....	33
1916.....	1	1923.....	34
1917.....	8	1924.....	25
1918.....	15	1925.....	19
1919.....	20	1926.....	2
1920.....	26	1927.....	1
1921.....	34		

The nature of the questions involved in the cases can best be described by an explanation of the above tables.

*Criminal proceedings awaiting trial (21 cases)*.—It will be noted that a substantial percentage of the cases carried as open cases fall within this classification. This office has already considered the

advisability of instituting criminal proceedings, made a recommendation to the United States attorney, together with a detailed statement of the case and an analysis of the law and facts, prepared indictments, issued necessary instructions to the intelligence unit and revenue agent in charge to present evidence to the United States attorney and cooperate in the prosecution, and forwarded the necessary certified photostatic copies of legal documents for use before the grand jury at the trial.

The attorney handling the case must be prepared to assist in the trial when called upon, and in the interim before the trial is often called upon for memoranda on law points, to develop additional points, and to consider various questions in relation to the case. In case of appeal there are briefs to be prepared and many law questions to be considered; in other words, it is necessary for the attorney to keep in close touch with the progress of the case until it is finally disposed of in the courts.

*Equity suits pending awaiting trial (seven cases).—*While the above are civil cases they remain in this division on account of the unusual circumstances of the cases. The cases were in one group (a whisky ring), in which summary assessment, fraud penalties, and criminal prosecution were involved. Fraud penalties were imposed and the parties convicted. At the same time it became necessary, in order to protect the interests of the Government, to place liens on certain real estate and bank deposits which the defendants were endeavoring to transfer or secrete. Injunction proceedings were necessary to prevent such concealment of property. Equity suits are now pending to make the injunctions permanent and subject the property to the Government claim for taxes.

*Consideration of criminal prosecution (11 cases).—*This classification involves the broad question of whether or not the facts warrant the institution of criminal proceedings. The most common charges are willful tax evasion, conspiracy to evade taxes, and perjury. As these are most serious charges, with heavy penalties, it necessarily follows that very careful consideration must be given to the evidence submitted to this office and to the development of additional material evidence. It must be borne in mind that the evidence must be of a clear and convincing character, and legally competent and admissible in a criminal case. In the ordinary case when the case has been investigated by the intelligence unit and all the evidence submitted to this office, and it is determined that criminal proceedings should be instituted, it becomes necessary to make a recommendation to the United States attorney, together with a statement of the case and a detailed analysis of the facts and law involved. Appropriate letters are written to the intelligence unit and the revenue agent in charge to submit the evidence to the United States attorney and cooperate with him in the submission of the case to the grand jury and in the subsequent trial. Proposed indictments are also prepared and forwarded. After the indictment the case is then within the jurisdiction of the Department of Justice, but as above pointed out, various matters in reference to the case are presented to this office until the criminal case is finally closed. Each of the cases, of course, also involves consideration of the imposition of fraud penalties.

*Consideration of penalties (exclusive of criminal prosecution) (5 cases).—*The matter of penalties, of course, is involved in the crim-

inal cases, but the class of cases referred to under this heading is where the imposition of penalties is considered and criminal prosecution is not contemplated. This classification also requires a careful analysis of the facts and circumstances surrounding the proposed additional assessment with a view of determining whether or not the taxpayer willfully neglected to file a return or filed a false and fraudulent return, bearing in mind that the evidence must be clear and convincing and sufficient to sustain the penalty, if imposed, in the courts or before the Board of Tax Appeals. Necessarily the broad question of intent of the taxpayer is also interwoven with intricate tax questions and other questions of law which also require a determination.

*Criminal prosecution recommended and referred (one case).—*Under this classification come the cases in which criminal prosecution has been deemed advisable and the matter referred to the United States attorney for action, but the matter has not yet been presented to the grand jury. All the steps referred to under the headings "Consideration of criminal prosecution" and "Criminal proceedings pending" have been completed, except that the matter has not reached the stage of actual presentation to the grand jury and indictment.

*Offers in compromise (seven cases).—*In this class of cases the taxpayer has offered a specific sum in lieu of criminal liability, civil penalties, and many cases include also the civil tax. This necessitates a rigid investigation of the taxpayer's solvency, the statements made in support of the offer and consideration of the various reasons for its acceptance or rejection, and a determination whether or not its acceptance is for the best interest.

*Miscellaneous cases (seven).—*Under this heading are classified cases in which some specific question of law has been presented or advice sought in regard to the disposition of a case in which other features have already been before the office. Some of the precise questions presented will be set forth hereafter.

*Associated cases (three).—*In this class of cases the facts are pertinent to the consideration of some other case. There is no liability attached to the taxpayer himself, but the facts in the case are important in the consideration of some other case.

*Other questions involved.*—In addition to the broad questions of the imposition of penalties and the advisability of instituting criminal proceedings, there necessarily arise many other questions of fact and law, some of which are as follows:

Are summary assessments against the taxpayer invalid in cases where the taxpayer, collector, or commissioner does not prepare or file an income-tax return? (Seven cases.)

In case a taxpayer makes a full return of his net income and pays his first quarter's installment for a series of years, but fails to pay the balance of his tax for each year and uses his net income for other purposes, should criminal proceedings be instituted for failure to pay taxes under the circumstances of the case? (One case.)

Are bank deposits of certain individual stockholders who make illegal sales of liquor of the taxpayer (a distillery), under the peculiar circumstances of the case, properly treated as income of the corporation? (One case.)

Is the Government precluded from asserting additional income taxes when prior to the assessment it accepted a compromise "in full

settlement of all civil claims of the United States," submitted by innocent stockholders who purchased the stock of guilty stockholders and which innocent stockholders had in mind the existing differential taxes and pending condemnation proceedings under the national prohibition acts? (One case.)

Is the transferee of the assets of a corporation, a former sole stockholder, liable for a fraud penalty proposed to be assessed after the legal dissolution of the corporation? (One case.)

An agent of a corporation owing the Government a large amount of taxes purchases a cashier's check under a fictitious name payable to another agent of the corporation also using a fictitious name, and the check is intercepted before reaching the payee and not cashed. A levy is made upon the bank from whom the cashier's check was purchased and an assessment made against the purchaser and the payee as transferees under section 280 of the Revenue Act of 1926. Which party is the proper "transferee" and is the assessment valid? (One case.)

Did the acceptance of the full payment of taxes and penalties under the circumstances of the case also settle the criminal liability? (One case.)

Do certain misleading affidavits in respect to financial condition submitted in support of an offer in compromise under the circumstances of the case warrant the institution of criminal proceedings for perjury? (One case.)

Whether or not certain payments purported to be gifts to the taxpayer constituted income of the taxpayer under the circumstances. (One case.)

Whether or not certain alleged gifts to wife and family were bona fide or colorable. (One case.)

Whether or not certain interest and expense payments made on behalf of the corporation by an individual stockholder may under the unusual circumstances of the case be taken as deductions by the individual. (One case.)

Were certain purported sales of stock avowedly made for the purpose of reducing income tax colorable or bona fide? (One case.)

In what year was a loss sustained in respect to German marks? (One case.)

A taxpayer assigned an interest in a contract of employment he had with a corporation for personal services to himself as trustee for the benefit of his wife and certain relatives, to be distributed to such of the beneficiaries and in such sums as he in his discretion may decide. Do the proceeds of the contract of employment become income to the taxpayer or to the purported trust? (One case.)

#### A TYPICAL MONTH'S WORK

It has been requested that a typical month's work be outlined and suggested that the month of April, 1927, be used. The office records, of course, can not furnish an entirely accurate record of the work done, such as research in the law library, consultation with the head of the division, revenue agents, and taxpayer's representatives, but the records are indicative to some extent of the character of the work accomplished.

My records disclose that in April, 1927, the number of cases on hand at the beginning of the month, received during the month, and closed or transferred during the month, were as follows:

Cases on hand at beginning of month-----	55
Received during month-----	7
Total-----	62
Closed during month-----	17
Transferred during month-----	7
	24
On hand at end of month-----	38

The office records indicate that memoranda, letters, conference reports, and conferences attended were as follows:

Memoranda (general)-----	26
Memoranda (transferring cases)-----	7
Closing memoranda-----	17
Reports of conferences-----	6
Formal letters-----	8
Telegrams-----	2
Conferences held-----	6

The scope of the work can best be described by an explanation of each of the above headings.

*Memoranda (general).*—This class consists of law briefs, analysis of cases, memoranda for the files in relation to certain phases of which a record is desired, statement of cases on certain points for use of the commissioner, intelligence unit, head of division, or other officers of the bureau. The memoranda vary in length from 1 page to 25 pages, depending upon the matters involved. Some are merely brief statements of the disposition of the case, while others may be an analysis of an intricate tax question. Some require a careful analysis of legal authority, while others are merely a narrative of facts as disclosed in the files and records.

*Memoranda (transferring cases).*—This class of cases merely consists of a brief description of the case or the point involved for the purpose of assignment to another attorney within the division.

*Closing memoranda.*—This class consists of a statement of the case and analysis of the same, together with the final conclusion and recommendation of the office. They are addressed to the office or persons who referred the case to this office for advice. An inspection of the closing memoranda shows that one consisted of 55 pages, single spaced, involving an unusually intricate statement of facts and questions of law. Although there are a few 1-page memoranda, the others vary from 2 to 10 pages. The 55-page memorandum above referred to probably required as much actual time in preparation as all the others together.

*Reports of conferences.*—After a conference held with the taxpayer or his representatives, it is useful for future reference and to avoid any misunderstanding to write a report for the files showing what took place, the matters presented, and any conclusion or agreement reached, if any. In a very important case this requires a carefully detailed account of the proceedings.

*Formal letters prepared.*—In the disposition of cases it becomes necessary to prepare letters for the signature of the commissioner and the general counsel which, while usually brief, require careful attention and preparation.

*Conferences.*—At times at the request of the taxpayer conferences are held in order that he may submit evidence and argue points of law in respect to the matter in controversy. Needless to say, the attorney representing the Government must be thoroughly familiar with the case, the points in controversy, and the pertinent facts in law that might be developed. He must also take an active part in the conference with a view to ascertaining, if possible, the true facts and correct interpretation of the law. The conference may occupy a few hours or, in some complicated cases, several days. The number of conferences listed above are those of a formal nature at which representatives of the taxpayer were present. There is no record of the many informal conferences within the department.

*General comment.*—As suggested above, a mere table of the documentary work done does not necessarily gauge the amount of work occupying the attention of the attorney, but it is indicative of the scope of the work. As an illustration it appears that in this month a large portion of it was devoted to one particular case in which it was necessary to confer with revenue agents, auditors, heads of offices and the Department of Justice, and unusually careful consideration of the tax questions. The case involved over \$1,000,000 in additional taxes and culminated in the Government actually receiving approximately \$1,200,000 in settlement of the civil income taxes, penalties, and interest, as well as an additional large amount in settlement of alleged criminal liability. The actual result of the work, however, would be reflected in other months. Also, in regard to cases shown as closed, in a number of cases the burden of the work was done in prior months.

It should also be mentioned that it is necessary for the attorney to keep abreast of the current decisions of the Board of Tax Appeals and the courts, as well as the fast accumulating decisions and reports of the bureau. It is very apparent that to keep abreast of the work much time is required outside of the usual working hours.

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### CIVIL DIVISION

The civil division, in cooperation with the Department of Justice and the United States attorneys in the several districts, handles all civil internal-revenue cases pending in the Federal courts other than appeals to the circuit courts of appeal from decisions of the United States Board of Tax Appeals under the Revenue Act of 1926. In general, this litigation may be divided into four classes:

1. Suits brought by taxpayers in the United States district courts for the recovery of taxes alleged to have been erroneously collected.

- (a) Suits against collectors.

- (b) Suits against the United States under the Tucker Act. (24 Stat., 505.)

2. Suits against the United States in the United States Court of Claims.

3. Suits by the United States for the collection of taxes, for recovery on bonds, for the enforcement of liens, and for miscellaneous relief.

#### 4. Suits originating in the State courts.

(NOTE.—Such litigation frequently arises out of the filing of tax claims in probate proceedings.)

Cases handled in the civil division are referred as follows:

(1) Suits by taxpayer:

(a) In suits against collectors copies of complaints are forwarded to the bureau by such collectors in accordance with general counsel mimeograph 3421. Such complaints are automatically routed to the general counsel's office and are referred to the civil division.

(b) In suits against the United States the taxpayer is required by section 6 of the Tucker Act (24 Stat. 505) to forward a copy of complaint by registered mail to the Attorney General. A copy of such complaint is then referred by the Department of Justice to the bureau, where it is automatically routed to the general counsel and to the civil division for handling.

(In both classes of cases above mentioned United States attorneys now frequently forward copies of pleadings direct to the office of general counsel.)

(2) Petitions in cases instituted in the United States Court of Claims are referred to the bureau directly by the Department of Justice.

(3) Cases in which suits for the collection of taxes are proposed are referred to the office of general counsel directly by the bureau. Such cases usually arise upon the receipt by the commissioner of communications from collectors reporting inability to collect by distraint.

(4) Offers in compromise under section 3229, Revised Statutes, are forwarded by the collectors to the commissioner. They are recorded in the compromise subsection of clearing division and then referred directly to the general counsel.

(5) Cases for suit under section 283(j) of the Revenue Act of 1926 following the commissioner's nonacquiescence in decisions of the Board of Tax Appeals are referred directly to the civil division by the appeals division of the general counsel's office.

The following table shows the number of civil internal-revenue cases pending in the courts at the end of the fiscal years 1922 to 1927, inclusive:

	Cases for suit by the United States	Cases pending in district courts	Cases pending in circuit courts of appeals	Cases pending in Court of Claims	Cases pending in the Supreme Court	Cases pending settlement	Cases pending payment of judgment	State court and miscellaneous cases	Total
Civil cases pending June 30, 1922.....	67	531	35	215	7	99	56	4	1,014
Civil cases pending June 30, 1923.....	63	602	25	536	23	87	29	5	1,370
Civil cases pending June 30, 1924.....	103	937	18	595	15	127	22	36	1,853
Civil cases pending June 30, 1925.....	391	1,220	31	637	27	123	47	21	2,497
Civil cases pending June 30, 1926.....	369	1,498	52	362	23	5	36	55	2,400
Civil cases pending June 30, 1927.....	290	1,605	80	482	27	95	99	130	2,808

During the fiscal year ended June 30, 1927, 1,530 new civil cases were received and 1,187 civil cases were closed. Civil compromise cases received during the year numbered 361. Four hundred and seventy-four compromise cases were disposed of, 264 being rejected and 210 accepted. The total amount of tax liability involved in these compromises was \$9,945,314.31 and \$2,087,345.29 was accepted in lieu thereof.

A section of the civil division is designated as the bankruptcy, receivership, and compromise sections. This section handles cases in



which claims are filed by collectors in bankruptcy and receivership proceedings and claims against the estates of insolvent persons. Evidence in support of the Government's claim is assembled in this section and forwarded to the collector or the United States attorney for use before the referee or trustee and the courts. Briefs are also prepared upon law points involved for the use of the United States attorneys in court proceedings, and in important cases an attorney from the section is present at the trial. Other functions of this section are the handling of compromise offers submitted by taxpayers alleged to be insolvent and the reviewing of offers submitted in compromise of liability for interest and delinquency penalties.

The work of the section for the fiscal year is summarized as follows:

*Bankruptcy, receivership, etc.*

Cases pending July 1, 1926.....	2,478
Cases closed during year.....	1,846
Cases pending July 30, 1927.....	2,074

In the 1,846 cases closed claims were filed in the amount of \$5,399,784.13, and the sum of \$1,730,422.58 was collected.

*Insolvent compromises*

Cases pending July 1, 1926.....	320
Cases closed during year.....	960
Cases pending June 30, 1927.....	470

In the 960 cases closed 425 were accepted in the sum of \$1,710,734.12 for taxes aggregating \$6,429,106.37, and 535 were rejected.

*Interest and delinquency penalty compromises*

Cases pending July 1, 1926.....	1,330
Cases closed during year.....	37,698
Cases pending June 30, 1927.....	40

*Civil internal revenue cases pending in the Federal courts and proposed suits, as per the records of the civil division of the general counsel's office, Bureau of Internal Revenue, as of June 30, 1927*

Distribution	Total
Cases in suit:	
By taxpayer.....	1,926
By Government.....	356
Total cases in suit.....	2,282
Cases not in suit.....	255
Total.....	2,537

Classified by amount	Total	Cases in suit	Cases not in suit
\$100 or less.....	47	38	9
\$101 to \$500.....	113	99	14
\$501 to \$1,000.....	177	148	29
\$1,001 to \$10,000.....	1,016	901	115
\$10,001 to \$50,000.....	724	666	58
\$50,001 and over.....	446	417	29
Injunction and miscellaneous cases, no amount shown.....	14	13	1
Total.....	2,537	2,282	255

*Civil internal revenue cases pending in the Federal courts and proposed suits, as per the records of the civil division of the general counsel's office, Bureau of Internal Revenue, as of June 30, 1927—Continued*

Year	Number of times each year appears	Per cent
1909.....	9	-----
1910.....	10	-----
1911.....	11	-----
1912.....	12	-----
1913.....	21	-----
1914.....	35	-----
1915.....	32	-----
1916.....	74	-----
Total years 1909-1916.....	204	4.72
1917.....	661	-----
1918.....	685	-----
1919.....	737	-----
1920.....	685	-----
1921.....	521	-----
Total years 1917-1921.....	3,399	77.24
1922.....	293	-----
1923.....	216	-----
1924.....	148	-----
1925.....	80	-----
1926.....	28	-----
1927.....	2	-----
Total years 1922-1927.....	767	17.74
Injunction and miscellaneous cases, years not given.....	13	.30
Total.....	4,323	100.00

### PROCEDURE IN A TYPICAL CASE HANDLED BY CIVIL DIVISION

When an action is instituted in a United States district court against a collector of internal revenue to recover taxes alleged to have been erroneously assessed and collected, a copy of the declaration is forwarded to this office by the collector, or by the United States attorney in whose district the case arises. Upon receipt of this copy the United States attorney is authorized by the commissioner to enter his appearance for the defendant and to take such other steps as may be necessary to protect the interests of the defendant and of the United States. The case is then assigned to the attorney in the civil division handling cases of its kind. The administrative papers relating to the case are requisitioned from the unit, and photostat copies of those pertinent to the issue are prepared and sent to the United States attorney, together with a succinct statement of the question involved, the statute under which that question arises, and the recommendation of this office as to the proper pleadings to be filed. If the case involves an issue of fact, the evidence necessary to sustain the Government's contention is then assembled by the attorney handling the case, either from the records available or through the revenue agents in charge, and placed in the hands of the United States attorney. Whether or not an issue of fact is involved, a trial brief is prepared for the assistance of the United States attorney.

When the case is set for hearing the general counsel's office is notified by the United States attorney and an attorney is sent to cooperate

in the trial of the case. Usually the United States attorney leaves the trial entirely in the hands of the attorney from the civil division.

The general counsel's office is advised of the entry of judgment, and if that judgment is against the defendant the matter of recommending to the Attorney General that a writ of error be sued out is taken under consideration. A memorandum stating the questions involved, the court's ruling on those questions, the effect of those rulings on the policy of the office and on its published regulations, and recommending either an appeal or no appeal, as the case may merit, is prepared for consideration by other divisions of the general counsel's office. The decision of the office is then referred to the Attorney General with a recommendation as to appeal. If an appeal is recommended and is authorized by the Attorney General the United States attorney is so advised, and the work of preparing the record is done by the civil division in cooperation with the United States attorney. A brief is prepared and usually the appeal is argued by the civil division's attorney handling the case.

When the case has been decided by the circuit court of appeals it is necessary in a great majority of the cases to oppose or prepare a petition for certiorari, and supporting brief, in the Supreme Court. In either event the briefs previously used in the case are revamped to meet the requirements of the rules of the Supreme Court, and the issues and arguments are reduced to their essence. In the preparation of the brief and the petition the civil division cooperates with the Solicitor General.

If certiorari is granted, the case is again briefed in the civil division and the brief forwarded to the Solicitor General for such use as he may make of it. At times the cases in the Supreme Court are assigned by the Solicitor General to the general counsel's office for argument in that court.

When a final judgment is entered the general counsel's office recommends either for or against the publication of the court's opinion as a Treasury decision. It also advises the taxpayer, if the judgment is in his favor, to file a claim for refund. This claim when filed is forwarded to the general counsel's office by the unit, and the amount to be paid thereunder, especially with reference to the amount of interest, is considered, and the proceedings are reviewed for the purpose of determining the propriety of paying the judgment claim. The case is then referred back to the unit with instructions as to the payment of the claim. When the claim has been paid the United States attorney is so advised and is requested to secure a satisfaction of the judgment.

In the following paragraphs statistical figures are given showing the volume of work handled in the civil division during a typical month. The figures shown are for the month of May, 1927:

Total number of cases pending first of month	2,641
Total number of cases pending end of month	2,706
Cases received during month:	
(a) For suit by United States	79
(b) For suits by taxpayer	81
Total	160
Cases closed during month	95
Complaints prepared	13
Answers filed	29

## Cases tried:

District courts	28
Circuit Courts of Appeal	0
Court of Claims	6
Supreme Court	0

Total 34

Briefs written 25

Decisions by courts	For Gov- ernment	For tax- payer	Half and half
District courts	9	7	3
Circuit courts of appeal	3	1	0
Court of Claims	10	0	2
Supreme Court	4	2	0

Letters written 2,710

Treasury decisions prepared 6

Memoranda written 1,350

Telegrams sent 58

## Compromises:

Number received during month 47

Number closed during month 40

Number rejected 13

Number accepted 27

Amount claimed, \$365,104.36; amount accepted, \$58,528.13.

The following figures represent the work of the compromise, bankruptcy, and receivership section of the civil division during the month of May, 1927:

*Bankruptcy and receivership cases*

Total number pending first of month 2,124

Total number pending close of month 2,043

Cases received during month 116

Cases closed during month 197

Tax due \$431,051.10

Amount collected \$243,615.85

Amount uncollectible \$189,600.36

*Insolvent compromise cases*

(Not involving bankruptcy or other proceedings)

Number on hand at beginning of month 452

Number on hand at end of month 408

Total number closed 129

Previously closed 17

Net closed 112

Total number received 85

Total accepted 35

Total rejected 87

Otherwise disposed of 7

129

Tax due \$386,273.61

Amount collected in compromise \$119,940.45

*Compromise cases*

(Specific penalty, ad valorem penalty and interest, briefed in administrative units and reviewed in general counsel's office)

On hand beginning of month.....	137
Received during month.....	2, 136
Closed during month.....	2, 087
On hand at end of month.....	192

## APPEALS DIVISION

The work of the appeals division consists in defending proposed assessments of deficiencies from which taxpayers appeal to the United States Board of Tax Appeals and, in cooperation with the Department of Justice, handling appeals in the circuit courts of appeals or the Court of Appeals of the District of Columbia from decisions of the board. Special attention is given to settlements of cases without trials.

Thirty-one field trips were made by divisions of the board during the year. Hearings were held at Portland, Me., St. Paul, Minn., Denver, Colo., Des Moines, Iowa, Atlanta, Ga., New Orleans, La., New York, N. Y., Fort Worth, Galveston, and Austin, Tex., Oklahoma City and Tulsa, Okla., Columbus and Cleveland, Ohio, Miami and Jacksonville, Fla., Kansas City and St. Louis, Mo., Boston, Mass., Memphis, Tenn., Portland, Oreg., San Francisco and Los Angeles, Calif., Detroit, Mich., Indianapolis, Ind., Seattle and Spokane, Wash., and Salt Lake City, Utah. From one to five attorneys from the appeals division accompanied each division of the board to represent the commissioner at the field hearings. The field hearings were carried on without interruption to the regularly scheduled hearings before the board and its divisions at Washington.

The following comparative statistics show the volume of work handled and its status before the Board of Tax Appeals during and at the close of the three fiscal periods ended June 30, 1925, June 30, 1926, and June 30, 1927. These figures refer to docket numbers and not to tax years. Quite often several tax years are included under a single docket number:

	June 30, 1925	June 30, 1926	June 30, 1927	Grand total
Appeals filed.....	5, 220	12, 867	11, 338	29, 425
Cases disposed of by the board in formal decisions.....	616	947	1, 080	2, 643
Cases disposed of without rendering formal decisions.....	1, 110	3, 022	4, 176	8, 308
Total number of cases disposed of during each year.....	1, 726	3, 969	5, 256	10, 951
Total number still pending at close of each year (including cases reopened).....	3, 494	12, 392	18, 481	-----

The total number of 8,308 cases disposed of by the board without rendering formal decisions is made up principally of dismissals for (1) nonprosecution, (2) lack of jurisdiction, (3) failure to file petitions within 60 days, (4) abandonment by taxpayers of protests against proposed deficiencies, (5) agreements or stipulations between taxpayers and the commissioner as to the correct tax liability, (6) failure to pay fees required by the board's rules. During the 10

months' period from October, 1926, to July, 1927, inclusive, for which a detailed analysis is available, the following cases were closed on the board's dockets:

Under board decisions on merits-----	910
Under stipulation without board hearing:	
(1) No deficiency-----	771
(2) Agreeing to proposed deficiency-----	170
(3) Proposed deficiency modified-----	1,399
	<hr/> 2,340
Dismissed for—	
(1) Lack of jurisdiction-----	608
(2) Nonprosecution-----	479
(3) Motion or consent of taxpayer-----	266
(4) Miscellaneous reasons-----	69
	<hr/> 1,422
Grand total disposed of from October, 1926, to July, 1927-----	4,672

It is provided under the Revenue Act of 1926 a decision of the board dismissing a proceeding shall be considered as its decision that the deficiency is the amount determined by the commissioner. This provision is not applicable, however, to dismissals for lack of jurisdiction, since the taxpayer in any such case may or may not have other recourses at law.

Stipulations are quite often the result of mutual concessions or concessions on the part of the commissioner due to the production by taxpayers of evidence not presented to the bureau before the mailing of deficiency letters or because of board or court decisions rendered or acquiesced in after the filing of appeals. Stipulations are not infrequently the result of decisions by taxpayers to accept the commissioner's findings due to voluntary acknowledgments of the deficiencies or to board or court decisions in other cases, and occasionally stipulations are entered into in which taxpayers agree to the finding of greater liabilities than proposed in the deficiency letters.

It has been the policy of the department to acquiesce in the decisions of the Board of Tax Appeals with few exceptions. Formal nonacquiescences had been published in only 71 decisions from the beginning of the board's operations in July, 1924, to June 30, 1927. Suits were instituted by the commissioner in about 48 cases under the provisions of the Revenue Act of 1924 and one appeal taken to a circuit court of appeals under the provisions of the 1926 act up to June 30, 1927. It appears less than 40 suits may have been instituted by taxpayers on board decisions under the 1924 act. Taxpayers have appealed to circuit courts of appeals in 47 cases under the 1926 act.

The creation of the Board of Tax Appeals has not decreased the number of tax suits in the Federal courts. Approximately 95 per cent of the cases now being brought in the district courts have never been before the board.

The following statistics indicate the extent of litigation in the Federal district courts in civil internal-revenue cases from 1917 to 1921, inclusive. It is not believed, however, these figures afford a basis for comparison with appeals filed with the Board of Tax Appeals since its establishment, because the bulk of the difficult cases pending before the Bureau of Internal Revenue were not passed upon by the bureau until during the more recent years.

Year	Pending at beginning of year	Commenced during the year	Terminated during the year	Pending at close of year
1917.....	495	307	329	473
1918.....	472	240	152	560
1919.....	560	441	303	698
1920.....	705	487	377	815
1921.....	795	1,074	635	1,234

A further statistical analysis of appeals to the Board of Tax Appeals will be found in the Appendix. The tabulations concerning the cases pending and closed before the Board of Tax Appeals were made up from index cards, and allowance must be made for misplaced and missing cards. The tabulations seem sufficiently accurate, however, for the purpose of showing what years constitute the bulk of the work, amounts involved, and the sections of the law under which the controversies arise. It should be stated that the amount involved in any particular appeal does not necessarily indicate the importance of the case. For instance, in special assessment or affiliation cases the proposed deficiencies may be less than \$1,000 or less than \$100, but the real contest may be over a refund in a large amount which might be found should the decision be adverse to the Government. Sometimes the question is purely one of law where the facts are not in controversy, and while the proposed deficiency may be small the appeal may have been brought as a test case or because a decision adverse to the Government would result in a refund. Quite frequently the small case simply represents the disposition of the taxpayer to appeal to the board because it is easy to do without any well-defined reason. A special effort has been made and is being continued to eliminate the small cases before the board by settlements without hearings where it is possible to do so.

For use in this report, three representative attorneys in the appeals division were asked to prepare reports on the condition of their work as of some date near October 1, 1927, and a summary of their activities during a typical month. These reports follow under the headings "Attorney A," "Attorney B," and "Attorney C."

#### ATTORNEY A

It is believed that a brief statement of the steps taken in handling a case in the appeals division of the office of the general counsel from the time the case is received in that division until it is finally closed by that division will make this report much more intelligible than it otherwise would be. It should be understood at the outset that all cases in the appeals division are cases either pending before the United States Board of Tax Appeals or are cases in which the Board of Tax Appeals has rendered a decision and an appeal has been taken from that decision to the United States circuit court of appeals or to the Supreme Court of the United States.

When, upon receipt of a 60-day deficiency letter proposing an additional tax, a taxpayer files an appeal to the United States Board of Tax Appeals, a copy of the taxpayer's petition is served upon the commissioner as the respondent in the suit and is sent to the appeals

division. This petition must be answered within 60 days from the date of its service, or, if motions are to be filed respecting it, such motions must be filed within 20 days. Upon receipt of the copy of the taxpayer's petition, the appeals division requests that all of the papers in the Income Tax Unit pertinent to the suit be assembled and forwarded in what is known as the administrative file. Upon receipt of the administrative file the case is assigned to some attorney in the appeals division.

The attorney to whom the case is assigned must first examine the files of the case with a view to determining whether or not the appeal is properly taken, and if he finds that it is not properly taken he must prepare and file a motion to dismiss either all or a portion of the appeal on the ground that the board has no jurisdiction to hear and determine the appeal. The attorney must determine whether the petition is properly drawn in accordance with the rules of pleading prescribed by the board, and if it is not properly drawn he must file an appropriate motion; for example, a motion to make more definite and certain or a motion to strike. If no motion is necessary, then the attorney must prepare the commissioner's answer to the petition, admitting such allegations as can and should be admitted and denying all others.

From the date the answer is filed until the case comes on for hearing the case may pursue one or more of a number of different courses. One party to the suit may make a motion for judgment on the pleadings, which would necessitate a careful preparation of the law pertaining to the case, an oral argument, and probably a written brief. Frequently the attorney for the taxpayer submits a proposed stipulation of facts covering the case, or a portion of it, and asks that a conference be held with the attorney in charge of the case for a discussion of the proposed stipulation. Such a stipulation requires the most careful study and scrutiny, both of the facts in the case and the wording of the stipulation itself, before it can be entered into with safety. Again, the attorney for the taxpayer frequently believes the case should be settled without trial and arranges a conference in which he endeavors by the production of further evidence or by argument, or both, to convince the attorney in charge of the case that the commissioner has committed error in certain respects and that adjustments should be made without trial.

Frequently the attorney for the taxpayer desires to take depositions of witnesses, and the attorney in charge of the case for the Government must arrange either to represent the commissioner himself or to have the internal-revenue agent in charge in the locality where the depositions are to be taken represent him. If the latter course is followed, then the attorney must write the agent in charge a carefully prepared letter analyzing the case, giving instructions, and making appropriate helpful suggestions for examination of the witnesses.

The attorney in charge of the case must determine whether or not it is necessary for the commissioner to call witnesses in his own behalf, and if so he must cause an investigation to be made to locate such witnesses and then have subpoenas issued and served, and if depositions are to be taken he must file application therefor, communicate fully to the internal-revenue agent in charge the nature



of the case and make all necessary arrangements. In some cases, in preparation for trial it is necessary for the attorney in charge to cause engineers or other Government experts to make further examination of properties in question in suit in order that they may be able to testify at the trial of the case.

As the time for trial of the case approaches and the steps preliminary to trial above described have been taken, the attorney in charge must make the usual immediate preparation that is made for the trial of a lawsuit. If the case is complicated a trial brief is usually prepared. The whole file is very carefully examined with a view to obtaining any papers that will serve as evidence in the trial. Considerable attention is given to the evidence that the other side must, and presumably will, introduce with a view to meeting such evidence. Notices to produce and subpoenas duces tecum are served on the adverse party so as to assure the commissioner that the petitioner will have present at the trial of the case such papers as furnish the basis for the commissioner's determination.

The trial of the case before the board is substantially the same as the trial of a suit in equity in Federal district court. Opening statements are usually made by both sides, witnesses are called, examined, and cross-examined, and an oral argument is made by both sides at the conclusion of the hearing unless argument is waived. If the case is of importance, on account of either the principle involved in it or the amount of money involved, both sides are allowed a limited time after the trial within which to prepare and file written briefs. The writing of the brief necessitates a very careful review of the evidence introduced in the case and a most careful examination of the pertinent statutes and decided cases and authorities.

As soon as the board publishes its first opinion stating how the tax should be computed, the attorney in charge sends the case to the Income Tax Unit where the tax is computed in accordance with the board's opinion, and the attorney then files a notice of settlement with the board. Frequently the commissioner and the taxpayer do not place the same construction upon the board's opinion, and in that event a further argument is made before the board, in what is known as a Rule 50 hearing, after which the board issues its final order determining the amount of the tax.

If an appeal is to be taken from the final decision of the board, it must be perfected within six months of the date of the entry of the final order of the board determining the deficiency. This means that very soon after the board's final order has been entered, the attorney in charge of the case must make his recommendation as to the final disposition of the case. Of course if the Government has won its contentions, then the attorney simply holds the case in his office during the six months' period during which the taxpayer may file an appeal to the Circuit Court of Appeals. If the taxpayer takes no appeal, then the attorney closes the case at the end of the six months by writing an appropriate memorandum.

If the taxpayer does take an appeal, then the attorney in charge of the case must take the necessary steps to protect the Government's interest in the appeal. If the Government loses the case, or any portion of it, then the attorney in charge must, in a written memorandum setting out fully his reasoning, recommend that the commissioner either acquiesce in the board's decision or take an appeal to the

Circuit Court of Appeals. If appeal is taken, then the attorney must take the necessary steps in preparing the appeal, consisting of writing a letter to the Solicitor General recommending an appeal, the drawing of a bill of exceptions and assignment of errors, a petition for review, and other papers necessary to an appeal. He must then argue the appeal in the appellate courts and prepare and file a brief in behalf of the commissioner.

The above affords a brief statement of the regular steps taken in the handling of a case in the appeals division. Innumerable duties arise that have not been even suggested above. However, it will be seen from the above review that there are no "dead" cases in the division. Taxpayers are eager to have their cases settled, attorneys are eager to have their fees. The additional taxes proposed are drawing interest. As a result of these things, the attorney for the taxpayer is constantly urging that steps be taken toward the trial of the case or toward settlement of the case without trial, and each case is an active one.

(a) There are assigned to me at the present time (October 1, 1927) 516 cases. The files in all these cases are kept in my office. Each case is one in which the taxpayer has filed a petition with the United States Board of Tax Appeals. The majority of these cases are awaiting trial before the Board of Tax Appeals. A considerable number, however, have already been tried and are now under advisement by the board and awaiting its decision. In a very few cases the decision of the board has already been rendered, and the cases are on appeal to the circuit court of appeals.

(b) The total amount of additional taxes involved in these cases is \$36,744,017.84.

(c) The average amount of additional taxes that the Government proposes to assess in each case is \$71,209.33. (It should be understood that by additional taxes is meant taxes that the commissioner has determined to be due and owing by the taxpayer over and above the amounts that he has previously paid.)

(d) The cases now assigned to my office present the widest variety of questions. It may be said that they cover almost the entire field of tax law, and a good portion of the field of general law. It is difficult to make any satisfactory classification of the cases. Some cases present only one issue, while other single cases present many issues. The following may be taken as typical of the questions or issues presented by the 516 cases now on hand in my office:

1. Constitutionality of certain sections of the revenue acts: These cases refer principally to section 280 of the Revenue Act of 1926, providing for the imposition of a tax upon the transferee of assets of a taxpayer, and section 319 of the Revenue Act of 1924, providing for gift taxes.

2. Cases involving the propriety of asserting a fraud penalty amounting to 50 per cent of the entire tax imposed.

3. Cases involving the statute of limitations: Because of the changes in the various revenue acts, and because of recent important decisions of the courts, this question has become a very important one and is asserted in numerous cases.

4. Cases involving the correct taking of inventories: Most mercantile businesses take inventories on the basis of cost or market, whichever is lower. This gives rise to many questions, mostly questions

of fact as to whether the inventory was fairly taken and the prices were prevailing prices.

5. Cases involving questions relating to community property: Much dispute has arisen as to whether or not in certain States a man and wife can report income separately and thereby avoid the higher surtaxes should the husband report the entire income. There are many phases and variations of this question, most of which arise in one form or another in income-tax cases.

6. Cases involving a taxpayer's right to special assessment under sections 327 and 328 of the Revenue Act of 1918: Claim to the benefit of these sections is asserted in many cases and constitutes a field of litigation in itself and has given rise to the famous *Osterlein Machine Co.* case now in the United States Supreme Court.

7. Cases involving a taxpayer's right to be affiliated with other corporations for tax purposes: The facts in each one of these cases must be very carefully considered to ascertain whether or not it meets the tests laid down by the board in its decided cases.

8. Cases involving the taxpayer's right to report income on the so-called installment sales basis: This question has already given rise to much troublesome litigation.

9. Cases involving the principle of constructive receipt: If income is available to a taxpayer in a certain year but the taxpayer purposely avoids taking it into his physical possession until the following taxable year, the commissioner treats the income as having been received by the taxpayer in the first year, on the principle of constructive receipt. These cases make necessary the introduction in evidence of the facts showing the availability or nonavailability of the income and other circumstances and conditions prevailing at the close of the first taxable year.

10. Cases involving exemption: These cases arise from taxpayers' claims that certain income or certain companies are exempt from payment of income tax.

11. Cases involving net loss: In these cases dispute often arises as to whether any loss was sustained and as to whether it was an operating loss as distinguished from a capital loss.

12. Cases involving the deductibility of certain expenditures: For example, was the amount expended a business or a personal one?

13. Cases involving deductions on account of bad debts.

14. Cases involving deductions from gross income on account of contributions.

15. Cases involving the question of depletion: These cases usually involve mines, oil wells, or timber, and necessitate careful consideration of several questions calling for engineering data as to the estimated quantity of mineral, oil, or gas on the property as at March 1, 1913, or at date of discovery if acquired by taxpayer subsequent to March 1, 1913, the value of the property on those dates, and the estimated life of the property.

16. Cases involving the question of personal-service classification: This necessitates a careful application of many tests laid down by the Board of Tax Appeals and the courts.

17. Cases involving amortization of war facilities.

18. Cases involving deduction from gross income on account of obsolescence.

19. Were the salaries paid to the officers of a corporation reasonable?

20. What was the fair market value of certain property on March 1, 1913? Probably this question arises more frequently than any other, since March 1, 1913, is a basic date for determining gain or loss from the sale of property and also for determining the amount the taxpayer is entitled to deduct from its gross income on account of depreciation and depletion. This question is applicable to every conceivable form of property.

21. Cases involving the question of dividends: For example whether certain dividends were paid out of surplus accumulated prior to March 1, 1913, or out of earnings subsequent to that date, and whether under the law certain dividends shall be taxed at the rate prevailing at the date of their distribution or at the rate prevailing at the time they were earned. This question has already given rise to three or four important decisions by the United States Supreme Court.

22. Cases involving the amount taxpayer is entitled to deduct from his gross income on account of depreciation of his property: This question is an important one and arises very frequently, and involves the valuation of all forms of depreciable property and the determination of the rate at which such property becomes exhausted as a result of wear and tear.

23. Cases involving trusts: These cases are complicated and difficult, and involve the whole field of general law pertaining to trusts.

24. Cases involving the definition of income, where a taxpayer contends that certain property he has received does not constitute income.

25. Cases involving the jurisdiction of the Board of Tax Appeals.

26. Cases involving the reorganization of a corporation, taxpayer contending that the reorganization was not a taxable transaction.

27. Cases involving the question of whether certain gifts were made in contemplation of death.

28. Cases presenting the question of whether certain property was acquired to replace other property which had been condemned or destroyed.

29. Cases involving the question of partnership and subpartnership: This question has already given rise to much litigation, and the effect of the creation of a subpartnership on income-tax law administration is not yet settled.

30. Cases raising the question of what is correct accounting practice: For example, should a certain item of income be accrued within the taxable year or did it become accrued in the following year? This question has already called for important decisions by the United States Supreme Court.

31. On what basis should the taxpayer file his return to properly reflect his income; that is, should he render his return on the accrual or on the cash receipts and disbursements basis?

32. Cases involving the claimed deduction of losses: These cases obviously involve all sorts of property and necessitate its valuation, its cost, selling price, and the determination of the year in which it became a loss, and oftentimes the question of whether or not it is such a loss as is deductible under the law.

33. Cases involving the application of special sections of the revenue acts: Some of the cases included under this heading have been mentioned above, such as special assessment and personal-service cases, but there are numerous other special sections in the acts, to the benefit of which taxpayers make claim.

34. Cases involving lessors and lessees.

35. Cases involving a determination of the taxpayer's statutory invested capital: This question is the cause of extensive litigation. It covers a very wide field, including among other things the valuation of all kinds of property at the date such property was acquired in exchange for capital stock of the corporation, amount paid for certain assets, valuation of good will acquired for stock of the corporation, determination of paid-in surplus, determination of values as at January 1, 1914, under the Revenue Act of 1917, valuation of patents, copyrights, and franchises, the propriety of including in invested capital promissory notes given for capital stock, and a thousand and one other questions which can not with propriety be set out in this report.

The following statement will give an accurate, detailed classification of the cases now assigned to me as that classification stood on October 1, 1927:

(a) (1) There were 355 cases in which the commissioner's answer had been filed and which were awaiting trial before the United States Board of Tax Appeals at Washington.

(a) (2) There were 24 cases in which the commission's answer had been filed and which were awaiting trial before the United States Board of Tax Appeals on its circuit calendar for trial in the field.

(a) (3) There were 25 cases in which the commissioner's answer had been filed, which had been placed and still remained on the reserve calendar of the board. Most of these cases were either in the process of being settled without trial or were awaiting decision of the board in some case already tried which would furnish a precedent and render trial unnecessary.

(b) On October 1, 1927, of the total cases assigned to me there were 20 in which the commissioner's answer had not yet been filed.

(c) On October 1, 1927, of the total cases assigned to me there were 60 which had been tried before the Board of Tax Appeals and were still under advisement by the board and awaiting its decision.

(d) On October 1, 1927, of the total cases assigned to me there were 21 cases in which the board had rendered its opinion, stating how the tax should be computed, but in which the final order of the board determining the exact amount of tax had not yet been entered, for the reason that there had not yet been held a hearing on notice of settlement as provided under rule 50 of the rules of practice of the board.

(e) On October 1, 1927, of the total cases assigned to me there was one in which the final decision of the board had been rendered and an appeal taken to the United States circuit court of appeals.

(f) Of the total cases assigned to me on October 1, 1927, there were seven in which trial had been had before the Board of Tax Appeals and in which briefs must be filed within a period fixed by the board at the time of trial.

In making this report it has been thought well to select a typical month and show my activities during that month. Since the main work of this division is the prosecution of tax cases before the United States Board of Tax Appeals, and since that board is in session during approximately nine months of the year, I have selected the last month that it was in session in 1927 and have endeavored to show my activities during that month. From April 10 until on or about May 17, 1927, I was away from Washington, engaged in the trial of tax cases before a field division of the Board of Tax Appeals. I have therefore taken as a typical month the period beginning May 18, 1927, and ending June 16, 1927. The board adjourned for the summer on June 16. At this late date it has been impossible to recall the many detailed activities performed, since no record of the same is kept, but the following is a fairly complete statement of the main activities of the 30-day period selected:

(a) On May 18, 1927, the first day of the 30-day period, there stood assigned to me a total of 460 cases, in which was involved a total amount of additional taxes in the sum of \$31,389,059.46.

(b) During the 30-day period beginning May 18, 1927, I closed 14 of the 460 cases. These 14 cases involved a total amount of additional taxes amounting to \$123,531.89.

(c) There were assigned to me during the 30-day period selected 69 additional cases, involving a total amount of additional taxes of \$818,149.87.

(d) On June 17, 1927, the end of the 30-day period, there stood assigned to me 510 cases, involving a total amount of additional taxes of \$31,506,304.03.

(e) During the 30-day period beginning May 18, 1927, I represented the commissioner in the trial of 15 cases before the Board of Tax Appeals. The following statement shows the principal facts involved in the trial of these cases:

#### Appeals of A:

Docket No. ——. Amount involved, \$215,429.92; years 1919-20.

Docket No. ——. Amount involved, deficiency, \$32,233.76; years 1921, 1922, 1923. Overassessment, \$23,834.68.

Docket No. ——. Amount involved, \$14,273.28; year 1918.

These three appeals, covering the taxpayer's liability for a period of five years, did not present identical issues but did present issues so similar that both sides agreed that the three appeals might be consolidated for hearing. Fourteen issues were presented by the three appeals, and in addition to these the jurisdiction of the board in one of these appeals was contested by the commissioner. Four attorneys represented the taxpayer at the trial of the cases. These cases were hard fought, and the trial of them extended over a period of two days.

#### Appeals of B:

Docket No. ——. Amount involved, \$18,234.58; years 1919-20.

Docket No. ——. Amount involved, \$36,348.91; years 1921, 1922, 1923.

These two cases presented six issues and were consolidated for hearing.

#### Appeal of C:

Docket No. ——. Amount involved, \$20,358.56; year involved, 1921.

This case involved one issue, relating to the proper method of taking inventories, and consumed one day in trial.

**Appeal of D:**

Docket No. ——. Amount involved, \$642.20; years involved, 1920 to 1923, inclusive.

This appeal involved one issue, relating to the propriety of including in the taxpayer's income for each year a proportionate amount of the valuable improvements to leased property owned by him, the lease extending over a period of 18 years. The board's determination of this issue with respect to the years in question will determine the policy to be pursued during the 18-year period of the lease. Most of the testimony in this case had been taken by deposition.

**Appeal of E:**

Docket No. ——. Amount involved, \$32,991.43; years involved, 1920-1921.

The question in this appeal was that of the March 1, 1913, value of certain corporate stock.

**Appeal of F:**

Docket No. ——. Amount involved, \$66,729.95; year involved, 1920.

This case presented three issues.

**Appeals of G:**

Docket No. ——. Amount involved, \$10,938.93; year, 1920.

Docket No. ——. Amount involved, \$29,806.10; year, 1921.

Docket No. ——. Amount involved, \$8,141.35; years, 1922, 1923, 1924.

These cases were consolidated for hearing and presented three issues. The cases were important for the reason that the taxpayer was seeking a discovery value on coal mines, something that had never been allowed by the Bureau of Internal Revenue. These cases were hard fought, witnesses being called by both sides. The trial of these cases consumed two days.

**Appeals of H:**

Docket No. ——. Amount involved, deficiency, \$201.41; overassessment, \$36.81; years, 1918, 1919, 1920.

**Appeals of I:**

Docket No. ——. Amount involved, \$521.06; years 1918, 1919, 1920.

**Appeals of J:**

Docket No. ——. Amount involved, \$591.61; years, 1918, 1919, 1920.

These three appeals were consolidated for hearing, since they involved similar issues, namely, the value of a leasehold on a coal mine as of March 1, 1913. The cases are important for the reason that the taxpayers will be entitled to deduct from their income each year during the entire life of the mine an allowance for depletion in accordance with the board's decision rendered in these cases. Witnesses and documents were subpoenaed by the commissioner, and many witnesses were called by the taxpayers. The trial of the cases consumed one day.

(f) During the 30-day period beginning May 18, 1927, I filed nine written motions to the Board of Tax Appeals. Three of these were set for oral argument and disposed of during that month.

(g) During that 30-day period I prepared and filed 26 answers to taxpayers' petitions.

(h) No briefs were filed during the 30-day period beginning May 18, 1927. Several were in the course of preparation, but very little was accomplished in the preparations of any briefs during that month.

(i) During the 30-day period I settled by written stipulation and without trial five cases.

(j) During the 30-day period I wrote 22 letters. These letters varied in character and length. Most of them were addressed to taxpayers or taxpayers' attorneys, replying to some inquiry concerning pending cases.

(k) During the 30-day period there were 34 memoranda prepared and sent out of my office. The memoranda varied widely in character and in length. Four of the memoranda were addressed to the commissioner and were drawn for the purpose of recommending either acquiescence or the institution of suit in certain cases already tried and decided by the Board of Tax Appeals. These memoranda called for a careful analysis of the cases to which they related, were two or three typewritten pages in length, and were very carefully prepared by myself.

In addition to the above there were numerous short, informal conferences and interviews with taxpayers and their representatives, who dropped into the office without any prearrangement. There were also, as always, numerous telephone calls, both from taxpayers and their representatives and from other attorneys in the office of the general counsel and officials in the Internal Revenue Bureau making inquiry concerning certain cases with which I have been connected.

#### ATTORNEY B

##### 1. Statement of work on hand September 1, 1927.

##### A. Number of board cases on hand:

(a) Number answered and awaiting board hearing:	
(1) At Washington .....	282
(2) Circuit calendar .....	32
(3) Reserve calendar .....	27
	<hr/> 341
(b) Number awaiting preparation of answer .....	42
(c) Number tried and awaiting board decision .....	90
(d) Number decided by the board and awaiting Rule 50 settlements .....	18
(e) Number pending on appeal from the board to the appellate courts .....	7
(f) Number in which briefs are due to be filed .....	10
Total .....	<hr/> 508

B. Total amount involved, \$35,709,146.39.

C. Average for each case, \$70,293.60.

D. Types of questions involved:

Determination of the fair market value of real and personal property on March 1, 1913, and other dates, for the purpose of computing gain or loss from sales and exchanges and from liquidating distributions paid in property by corporations, and for computing depreciation or exhaustion and obsolescence, and the amount at which assets are to be included in invested capital.

Determination of the physical life of property, such as factory and store buildings, machinery, equipment, and furniture and fixtures, for computing depreciation, and of the useful life of property for obsolescence.

Determination of quantity of ore in a mine or of oil in the ground and of its value for the purpose of depletion.

Determination of the values, if any, at which real or personal property, particularly intangibles, such as good will, trade-marks, patents, etc., may be included in invested capital.



Questions arising in connection with corporate distributions, such as whether they were paid out of corporate earnings before or after March 1, 1913; whether they were liquidating distributions or ordinary dividends; and whether, if liquidating distributions, any taxable profit was realized by the stockholder.

In what year income was taxable, as whether commissions on loans were income when the loans were made or when they were paid; whether royalties impounded by a court pending the outcome of litigation over a period of years were income when paid into court or when released to the taxpayer; whether undrawn salary was available to an employee, and therefore taxable income prior to actual payment; and whether interest accrued on a note was available to the payee and therefore taxable income prior to payment.

Whether an organization was taxable as a trust or as an association taxable as a corporation; whether a corporation was taxable as an ordinary corporation or as a life insurance company; and whether a real estate board was tax exempt as a business league.

Whether alleged bad debts became worthless during the taxable year; whether a loss was sustained on corporate stock during the taxable year; whether various items were ordinary and necessary expenses, such as cost of defending a criminal action which resulted in acquittal, contributions by corporations to churches, schools, and similar organizations, salaries (depending on whether reasonable or excessive), and cost of repairs (depending on whether capital expenditures or not).

Whether income of a lessee from lands owned by a restricted Indian was tax exempt; whether compensation received from a reclamation district was exempt, as compensation of a State or municipal employee; whether income of a trust was taxable to the beneficiary or the fiduciary, and whether the beneficiary of a trust could deduct depreciation of trust property or losses from sales of trust property; amount of income derived by a foreign corporation from sources within the United States; and whether a corporation was entitled to special assessment because abnormal conditions affected its capital or income.

Whether a taxpayer was guilty of negligence or fraud in making his return; whether the commissioner had a right to reopen a case alleged to have been closed; and whether assessment or collection of a tax or both are barred by the statute of limitations.

2. Statement of activities during April, 1927:

- (a) Number of cases on April 1, 1927, 471; amount involved, \$29,042,-011.51.
- (b) Number closed during April, 8; amount involved, \$38,374.55.
- (c) Number assigned to me during April, 17; amount involved, \$3,134,646.11.
- (d) Number on hand at end of April, 441; amount involved, \$32,047,030.02.
- (e) Number of cases tried on merits during April, 10.
- (f) Number of motions filed during April, 2; number of motions argued during April, 2; number of other appearances before board during April—contested settlements, 2.
- (g) Number of answers prepared and filed, 9.
- (h) Number of briefs written and filed, 3.
- (i) Number of cases settled during April, 2.
- (j) Number of stipulations of fact filed, 2.

In addition to the above activities, a number of stipulations of fact not filed during April were given consideration during April, and the time so occupied, both in conference with taxpayers and their representatives and outside such conferences, exceeded the working time of 10 days.

The working time of at least two days was spent in the preparation of two of the answers filed during April.

In addition to the two briefs filed during April, considerable work was done on three others filed during the first days of May.

No record has been kept of telephone calls but they are numerous and in the aggregate require considerable time. The same is true of office conferences. The days when there are no conferences are exceptional, and there may be from one to five on one day.

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### ATTORNEY C

On October 1, 1927, there were in my files 465 cases involving a total tax of \$11,480,800.70, which would represent an average amount involved in each case of \$24,689.89. Some of the questions involved in the cases under appeal are as follows:

1. Valuation of various assets, such as water power, buildings, land, good will, stocks and bonds, patents, inventories, contracts, etc.

2. Exemption from taxation on the basis of classification as personal service corporation or association, section 200, acts of 1918 and 1921, and exemption on the basis of classification as building and loan association under section 231, acts of 1918, 1921, and 1924.

3. Assessment of taxes under various sections of the revenue acts, viz: Sections 209 and 210, Revenue Act of 1917; sections 327 and 328, Revenue Acts of 1918 and 1921; section 303, Revenue Acts of 1918 and 1921; sections 242 and 247 of the Revenue Acts of 1921 and 1924; and section 206 of the Revenue Act of 1921.

4. Questions involving determination of taxable income and whether the commissioner has proposed to tax the income in the proper year.

5. Questions involving accounting, viz: Whether taxpayer should report income on cash receipts and disbursements basis or upon accrual basis, or whether taxpayer is entitled to report income on installment basis.

6. Fraud penalties.

7. Questions involving statutes of limitation.

8. Questions involving statutory invested capital.

9. Questions involving alleged losses, bad debts, business expense, reserves of various kinds, etc.

Of the 465 cases assigned to me, 320 are on the calendar for hearing at Washington, D. C.; 26 on circuit calendar; 16 on the reserve calendar; 39 are awaiting the preparation of answers to the petitions to be filed with the board; 25 are held pending the decision of the board; 9 are held pending final redetermination under the board's Rule 50.

There are eight cases which have been appealed by the taxpayer to the circuit court of appeals which are now being prepared for hearing; briefs are due to be filed in eight of the appealed cases.

On May 1, 1927, there were 462 cases in my files involving a total tax of \$9,656,756.03; of said cases 9 were closed in May, involving a total deficiency tax of \$135,003.83. There were nine cases transferred from me to other attorneys involving a total tax of \$64,900.80. There were 12 cases assigned to me during the month of May and the total amount of tax involved in said cases was \$361,061.96. The number of cases on hand at May 31, 1927, was 456, and the total amount of tax involved was \$9,817,913.36.

The following shows work performed by me during May, not including considerable time spent in preparing for the trial of a large fraud case involving a large tax and penalty, which was finally disposed of in the following month.

During this month I tried on the merits six cases, and closed three by agreement. I also prepared four other cases for trial, which were dismissed by the board on the day of trial for nonprosecution, and handled two contested Rule 50 settlements. I prepared and filed one brief and partially finished three others. During the month of May 18 answers to petitions were filed with the board.

In addition to work performed as set forth above, a number of short conferences were held with attorneys for taxpayers in various cases and with attorneys of this office in connection with cases which involved the question of classification as personal-service corporations which were being prepared by them for trial. Also letters to attorneys and taxpayers relative to cases under appeal. No record kept of these conferences.

Even a casual examination of the foregoing analysis of the work of the general counsel's office shows the two problems which confront the office as a whole. The first is a personnel problem, the second arises from the nature of the questions involved which makes them impossible of solution with mathematical correctness.

#### PERSONNEL

*Personnel by divisions as of June 30, 1927*

	Attorneys	Senior clerks, examiners, law clerks, accountants	Messengers and clerks	Total
Interpretative Division I .....	27	4	20	51
Interpretative Division II .....	12	1	8	21
Penal Division .....	17	1	21	39
Civil Division .....	35	7	29	71
Bankruptcy section .....	11	3	10	24
Appeals Division .....	43	32	75	150
Administrative Division .....	4	5	102	111
Total .....	149	53	265	467

Average salaries are as follows: Attorneys, \$4,300; law clerks, accountants, examiners, and senior clerks, \$3,900; clerical and messengers, \$1,620.

It is not necessary, after an examination of the work pending before the individual attorneys in the office and the work done by them in a typical month, to argue that the office is undermanned. No attorney can properly handle over 500 cases in litigation, involv-

ing more than \$35,000,000, and when the report shows that that attorney, during one month, tried 15 of the cases which involved on an average more than \$70,000 each, prepared and argued 9 motions, prepared and filed pleadings in 29 cases and settled 5 cases, beside handling his regular routine work. The urgent need of more attorneys is apparent.

The analysis previously set out of the nature of the questions involved before the office makes it equally obvious that the need is for able lawyers of real experience. The cases involve the most difficult questions, not only of tax law but covering the entire field of general law. They involve questions calling for highly specialized training and knowledge, such as questions of valuation of natural resources and questions of patent law.

It is imperative that every possible step should be taken to secure more well-qualified attorneys for the general counsel's office and to retain the attorneys now in the office. To assist in this it is recommended that—

(a) The positions of the heads of the six divisions of the general counsel's office and of the two assistant general counsel should be classified in grade 7 of the professional service of the classification act, which specifies a salary of \$7,500 a year; and there should be at least 15 positions classified in professional grade 6, which specifies a minimum salary of \$6,000 a year.

(b) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, should be authorized to make original appointments in the office of the general counsel in professional grade 5, which allows an entrance salary of \$5,200.

(c) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, should be authorized to appoint in professional grade 2 (at an entrance salary of \$2,400) graduates of law schools, without the professional experience now required.

It is not contended that the adoption of these recommendations will solve the personnel problem. It is confidently believed, however, that their adoption will aid materially in retaining the attorneys now in the general counsel's office and in obtaining in addition the type of men which the office needs.

## APPENDIX

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### PRESENT ORGANIZATION OF THE BUREAU

The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, has general supervision of the assessment and collection of all internal-revenues taxes; the enforcement of internal revenue laws; the selection, compensation, and assignment to duty of all internal-revenue officers and employees, and the preparation and distribution of instructions, regulations, forms, blanks, stamps, etc.

The Bureau of Internal Revenue in Washington comprises the following units:

- Miscellaneous tax unit.
- Accounts and collections unit.
- Income Tax Unit.
- Commissioner and miscellaneous unit.
- General counsel's office.

The miscellaneous tax unit is charged with the administration of the laws in respect to estate tax, to miscellaneous taxes, including the taxes on the sale of automobiles, pistols, and revolvers, cereal beverages, admissions and dues, oleomargarine, adulterated and renovated butter, mixed flour, filled cheese, white-phosphorous matches, playing cards, bonds of indebtedness, the issue and transfer of certificates of foreign insurance policies, special tax on use of foreign-built boats, cotton futures act, the taxes on distilled spirits, products of rectification, still wines (including vermouth, artificial or imitation wines or compounds, when sold as wines), champagne or sparkling wine, artificially carbonated wine, liqueurs, cordials, or similar compounds (when containing sweet wine fortified with grape brandy), dealcoholized wines having less than one-half of 1 per cent of absolute alcohol, special taxes on rectifiers, wholesale and retail liquor dealers, wholesale and retail dealers in malt liquors, brewers, manufacturers of stills, tax on stills and worms manufactured, special taxes on importers, manufacturers, producers, or compounders of and wholesale and retail dealers to narcotic drugs, physicians and other practitioners prescribing narcotics, manufacturers of and dealers in nontaxable narcotic preparations, and tax on opium, coca leaves, and compounds, salts, derivatives, or preparations thereof, and of the law and regulations relating to taxes on tobacco, snuff, cigars, cigarettes, cigarette papers and tubes, and relating to dealers in leaf tobacco, peddlers of tobacco, and dealers in manufactured tobacco. This unit is also responsible for adjusting and closing cases under repealed miscellaneous tax laws.

The accounts and collections unit is charged with the administration of matters having to do with the organization and management of the offices of collectors of internal revenue, including their field forces; with the administrative audit of disbursing accounts of all collectors of internal revenue, internal-revenue agents in charge of divisions, and other special disbursing agents in the Internal Revenue Bureau and Service; office procedure and accounting methods in collectors' offices, the administrative audit of all revenue accounts submitted by collectors of internal revenue, and the issue of stamps to collectors of internal revenue.

The Income Tax Unit is the agency of the Bureau of Internal Revenue for administering the income and profits tax laws. Its duties are to prepare income-tax forms and regulations for the administration of laws relating to taxes on incomes and profits; to conduct correspondence relating to the subject matter of income and profits taxes; to receive from collectors of internal revenue returns (except certain individual returns showing net income not in excess of \$5,000) covering taxes on incomes and profits; to audit and verify returns (except certain individual returns showing net income not in excess

of \$5,000); to see that all original and additional assessments of income and profits taxes are made on such returns; to review and dispose of claims for refund, abatement, and credit of income and profits taxes; to compile statistics relating to income and profits taxes; and to control and operate the field forces of revenue agents assigned to the duty of auditing income and profits tax returns (except certain individual returns showing net income not in excess of \$5,000).

The general counsel's office is the legal branch of the bureau and acts as the legal advisor to the commissioner and to the administrative units of the bureau; represents the bureau in cases before the United States Board of Tax Appeals; and cooperates with the Department of Justice in representing the Government in all Federal courts in cases arising under the various internal revenue laws. The functions of this office are separated into six divisions, as follows:

1. Interpretative Division No. I.
2. Interpretative Division No. II.
3. Civil Division, including CDR.
4. Penal Division.
5. Appeals Division.
6. Administrative Division.

The commissioner and miscellaneous unit comprises the immediate office of the Commissioner of Internal Revenue and his assistant, the intelligence unit, appointment division, administrative division, special advisory committee, and all details of personnel to offices outside of the bureau.

#### THE FIELD SERVICE

There are two main divisions of the field service, as follows:

*Collection service.*—Comprises 64 collection districts, each under a collector of internal revenue appointed by the President with the advice and consent of the Senate. This field service is under the immediate direction of the deputy commissioner in charge of the accounts and collections unit.

*Field audit service.*—Comprises 36 field divisions, each under an internal-revenue agent in charge appointed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. These 36 agents in charge of divisions operate under the immediate direction of the deputy commissioner in charge of the Income Tax Unit.

In addition to the two above-mentioned field divisions there are the following traveling forces operating from Washington:

*Intelligence agents.*—Under the immediate direction of the chief, intelligence unit, who operates under the direct supervision of the Commissioner of Internal Revenue.

*Supervisors of accounts and collections.*—Operating under the immediate direction of the deputy commissioner in charge of the accounts and collections unit.

*Miscellaneous and sales-tax agents.*—Operating under the immediate direction of the last-named official.

### OUTLINE OF FUNCTIONS PERFORMED BY THE INCOME TAX UNIT

#### OFFICE OF ASSISTANT TO THE COMMISSIONER

##### (Head of the Income Tax Unit)

The office of the head of the Income Tax Unit includes and is immediately responsible for the operation of the following sections, the duties of which are outlined:

#### RULES AND REGULATIONS SECTION

(a) Originates and publishes regulations for the administration of the income and profits tax laws.

(b) Prepares and revises all income-tax forms.

(c) Furnishes, on the request of taxpayers or their representatives, rulings and information relating to the law and regulations.

(d) Prepares special decisions in regard to questions of law upon request of internal-revenue agents, collectors of internal revenue, and the audit divisions or sections.

(e) Answers general correspondence, involving rulings or interpretations of the law and regulations.

(f) Prepares the matter for the bulletins published by the Bureau of Internal Revenue so far as it relates to income and profits taxes, and edits the Internal Revenue News.

(g) Reviews proposed publications relating to income and profits taxes prepared in other divisions of the Income Tax Unit, or in other offices of the Government and referred to the Income Tax Unit for consideration.

(h) Handles cases coming under section 280 of the Revenue Act of 1926, including the preparation and sending of 60-day letters to transferees.

(i) Considers and passes upon cases involving the prima facie application of section 220 of the various revenue acts.

#### SPECIAL ADJUSTMENT SECTION

Audits all returns and reports in which the 100 per cent penalty for 1917 and 5 and 50 per cent penalties for 1918 and subsequent years are involved, and adjusts related claims.

#### FIELD PROCEDURE SECTION

(a) Has general supervision of the outlining of office and field procedure and the coordination of the work of the Income Tax Unit, office of general counsel, Internal Revenue Bureau, committee on enrollment and disbarment, miscellaneous tax unit, and the intelligence unit with the work of the 36 field divisions and the 64 collection districts covering the investigation of income-tax returns.

(b) Drafts and interprets to the field divisions regulations governing procedure in the offices of internal revenue agents in charge on income-tax cases.

(c) Directs and coordinates investigations along particular specialized lines in complex and technical cases in which examining officers in the field can not perceive the facts which it is necessary for the bureau to have in order to determine the correct income-tax liability of taxpayers.

(d) Allots technical and clerical personnel to field divisions (field estate tax agents operate under supervision of agents in charge of income-tax work).

(e) Prepares statistical tables from monthly production reports and by means of special letters and general articles endeavors to stimulate the production of the 36 field divisions.

(f) Reviews correspondence emanating in the bureau at Washington addressed to agents in charge.

(g) Acts as clearing house for questions arising in the field division on technical matters, securing data from audit divisions, rules and regulations section, and general counsel for the guidance of the agents in charge.

(h) Exercises general administrative control over expenditures incurred by agents in charge.

(i) Handles correspondence between Washington and the field with respect to confidential and controversial matters.

#### EFFICIENCY RECORDS SECTION

(a) Maintains records and furnishes all required data relative to efficiency ratings of employees and the classification of positions.

(b) Supervises the preparation of efficiency ratings and investigates discrepancies therein.

(c) Controls the submission of classification sheets describing the duties of employees and recommends allocations of classification grades.

(d) Analyzes recommendations for changes in compensation for conformance with efficiency ratings, classification grades, and rules in connection therewith.

(e) Maintains contact with the Personnel Classification Board and the Bureau of Efficiency with reference to classification and efficiency matters.

(f) Conducts correspondence and interviews with reference to the above activities.

#### PERSONNEL OFFICE

(a) Selects technical employees for original appointment, assigns all personnel, and arranges all changes in office of members of the unit in Washington.

(b) Conducts interviews with members of the unit relative to personnel matters and makes adjustments of the personnel, recommendations for promotion, demotion, transfer, suspension, removal, and the acceptance of resignations and disciplinary action.

(c) Controls personnel relations with the appointment division of the bureau and, through the appointment division, with the United States Civil Service Commission.

(d) Controls relations of members of the unit with the Veterans' Bureau and in case of injuries with the United States Employees' Compensation Commission.

(e) Compiles special reports on personnel matters and analyzes records for aid in the determination of personnel policies.

(f) Maintains records of personnel qualifications, education, and experience, and records all changes in office and status of the personnel of the unit.

(g) Supervises the issuance of transportation requests, reviews all expense vouchers, and handles all relations in regard to these matters with the accounts division of the Bureau of Internal Revenue.

(h) Directs all efforts for the welfare of employees instituted by the unit.

(i) Conducts correspondence and personal interviews relating to the activities of the section.

#### SERVICE SECTION

(a) Receives from the various divisions information regarding work and production and compiles same into statements for the information of executive officers concerned.

(b) Maintains conference rooms at Treasury Annex 2, where taxpayers or their representatives are received by the conference secretary and proper conferees notified of their arrival for conferences.

(c) Maintains records of powers of attorney for the information of members of the unit holding conferences with persons claiming to represent taxpayers.

(d) Maintains a control of correspondence which requires expeditious handling, such as telegrams, congressional mail, correspondence with departmental heads and State officials, letters for the signature of the Secretary and the Undersecretary, complaint letters, and other correspondence which requires immediate reply.

(e) Furnishes information to taxpayers or their representatives as to the status of pending adjustments.

(f) Operates photostat laboratory.

(g) Furnishes stenographic service.

(h) Has custody of property assigned for the use of the Income Tax Unit and approves requisitions originating in the unit before presenting to the supplies and equipment section, administrative division, Bureau of Internal Revenue.

#### RECORDS DIVISION

This division includes and is responsible for the operation of the following sections, the duties of which are outlined:

#### DISTRIBUTION SECTION

Maintains distribution centers in various parts of the unit where needed which distribute and control the returns in process of audit; likewise maintains a corps of special searchers for locating cases when their services are required.

#### FILES SECTION

Has record and control of returns, correspondence, and revenue agents' report files for the years 1909 to 1926. In connection with the above-mentioned return, correspondence, and report files, the following classes of work are performed:

(a) Searching requests by requisition, telephone calls, etc., for returns.

(b) Withdrawing and charging of returns, correspondence, and reports on control records.

(c) Arranging, checking, stapling, and filing of returns by collection district and by code system.

(d) Arranging and filing of control cards by collection district and alphabetically within filing code.



- (e) Entering, assembling, reviewing, charging, routing, coding, closing, and filing of revenue agents' reports.
- (f) Assembling, classifying, charging, and routing of claims.
- (g) Handling correspondence with agents, collectors and taxpayers, and their legal representatives.
- (h) Furnishing photostats of returns, correspondence, and revenue agents' reports to taxpayers, attorneys, etc.
- (i) Transmitting of approximately 700,000 returns yearly to field divisions.
- (j) Locating by special search cases requested by any division of the Income Tax Unit.
- (k) Maintaining control cards made for each taxpayer's return upon receipt from collectors' offices, indicating all movements of return until final adjustment.
- (l) Maintaining special unit control of all bankrupt, receivership, dissolved, in liquidation and out-of-business cases, which indicates at all times the location of such cases.

#### SORTING SECTION

- (a) Secures all information returns of salaries, interest, dividends, commissions, and other gains direct from payers of income and examine such returns to insure proper execution.
- (b) Receives, proves, and audits all monthly and annual withholding returns reporting bond interest, salaries, wages, etc., paid to aliens and tax-free bond interest to citizens.
- (c) Assembles information and ownership certificates for use in the audit of personal returns and in securing delinquent returns by collectors.
- (d) Compares assembled certificates with "accepted" returns to detect undisclosed income.
- (e) Receives and adjusts all claims and reports of revenue agents relating entirely to the withholding features of the law.
- (f) Conducts all correspondence arising in connection with the above duties.

#### FIELD AUDIT REVIEW DIVISION

Reviews the more difficult and contested reports of internal-revenue agents in charge on the tax liabilities of corporations, individuals, fiduciaries, and partnerships, and after offering each taxpayer the right of conference, makes final determination of the tax liability and so advises the taxpayer. This division consists of the following sections, the duties of which are outlined:

##### SECTION A

Determines the statutory tax on corporations.

##### SECTIONS B AND C

Determine the statutory tax on individuals, fiduciaries, and partnerships.

##### SPECIAL ASSESSMENT SECTION

Determines the tax on corporations, partnerships, and individuals under section 210, Revenue Act of 1917, and on corporations under sections 327 and 328 of the Revenue Acts of 1918 and 1921.

#### CONSOLIDATED RETURNS AUDIT DIVISION

Audits and reviews all returns of affiliated groups which file consolidated returns under the provisions of the law and regulations, and returns of all companies associated but not legally affiliated. This division is responsible for the operation of the following sections, the duties of which are outlined:

##### ENGINEERING SECTION

Determines the valuation of natural resources, such as oil, gas, coal, metals, clay, gypsum, sulphur, quarries and quarry products, sand, gravel, cement rock, salt, mines and wells, phosphate deposits, kaolin, and other minerals; the valuation of timber property, as of dates significant under the law; and reasonable amounts allowable as deductions on account of depletion.

## ADMINISTRATIVE SECTION

(a) Examines all returns assigned to this division for the purpose of determining whether or not they are properly affiliated in accordance with the law and regulations.

(b) Receives and clears all incoming and outgoing returns, claims, correspondence, etc.

(c) After determining which returns are properly affiliated, assembles all related returns and papers from the general files for the purpose of the audit.

(d) Makes a preliminary audit of all returns for the purpose of closing at the source such returns as need no further action, with the exception of returns involving natural resource or engineering features.

(e) Is responsible for the maintenance of such statistics, records, and current reports as may be necessary for the administration of the division.

## SECTIONS D AND E

Audits all returns of and reviews all revenue agents' reports on consolidated corporations (excepting those handled by Section G and the railroad section), including all returns of public utilities and transportation companies (other than railroads under the jurisdiction of the Interstate Commerce Commission), and all foreign steamship returns.

## SECTION G

(a) Handles all consolidated returns involving natural resource and engineering features, as well as all corporation and personal returns involving such features.

(b) Audits all returns of and reviews all revenue agents' reports on consolidated corporations involving natural resource and engineering features.

## RAILROAD SECTION

Audits all returns of and reviews all revenue agents' reports on railroad corporations which are subject to the jurisdiction of the Interstate Commerce Commission.

## REVIEW SECTION

Reviews the work of all the other sections in the division, examines all appraisals filed prior to transmission to the audit sections, and renders such technical advice as may be necessary to the chiefs of sections upon request.

## CONFERENCE UNIT

Holds conferences with taxpayers or their attorneys, excepting conferences on purely engineering features, which are held by members of the engineering section.

## TRAVEL UNIT

Makes such examination of the books and records of consolidated corporations as may be necessary in those cases in which the books and records of the corporations concerned are located in two or more noncontiguous revenue agents' districts.

## CLEARING DIVISION

This division includes and is responsible for the operation of the following sections, the duties of which are outlined:

## CLAIMS CONTROL SECTION

(a) Receives, records, and routes to proper section for adjustment all claims with related papers and returns and maintains records necessary to control and locate them.

(b) Reviews and schedules certificates of overassessment.

(c) Administers section 1116 (a) of the Revenue Act of 1926, relating to interest on refunds and credits.

(d) Adjusts all collectors' claims for refund, Forms 844 and 7809 (a); uncollectible items, Form 53; credit claims, Form 843B; and abatement claims, Form 843.

(e) Conducts general correspondence pertaining to the administrative provisions of the income tax laws and regulations as related to the duties of the claims control section.

#### PRELIMINARY AUDIT SECTION

(a) Reviews all 1040 and 1120 current-year returns marked for acceptance by revenue agents and determines whether their recommendations shall be accepted and the case closed or rejected and the case returned to the field for further audit.

(b) Reviews all revenue agents' reports recommending additional taxes, to which the taxpayer agrees, where the total tax is \$5,000 or more, and all reports involving overassessments to which the taxpayer has agreed.

(c) Reviews refund claims and allows, rejects, or refers them to the proper audit section or field division for investigation if necessary.

(d) Reviews all information reports involving no change in tax, and delinquent and amended returns for prior years, and determines whether to close or refer them to the field for investigation.

(e) Examines correspondence received in the 60-day file with respect to cases in the 60-day status and determines whether it should be referred to the special advisory committee.

(f) Prepares certificates of overassessment in cases referred to it by the special advisory committee for such action.

(g) Prepares recomputations in cases in which the Board of Tax Appeals hands down decisions, under Rule 50.

#### PROVING SECTION

(a) Verifies income and profits taxes as disclosed by returns with assessment lists. Balances, proves, and prepares for certification assessment lists received from the 64 collection districts.

(b) Records all returns received and taxes assessed by classification.

(c) Maintains a file of all cases in the 60-day status. Furnishes to the office of the general counsel all material necessary in prosecuting appeals before the Board of Tax Appeals.

(d) Prepares additional assessment lists weekly and computes the interest on all deficiencies reported thereon.

(e) Makes proper disposition of all remittances received in the unit.

(f) Passes on the merits of claims for refund of penalties and of proposals to compromise liability to penalty and interest incurred by delinquency in filing returns and paying taxes. Maintains a record of all offers submitted in settlement of taxes and fraud penalties passed on by the general counsel. Adjusts assessments after the acceptance of offers.

(g) Handles all matters in connection with agreements as to final determinations and assessments of taxes under section 1106 (b) of the Revenue Act of 1926.

(h) Conducts general correspondence pertaining to the administrative provisions of the income tax laws and regulations as related to the duties of the proving section.

#### STATISTICAL SECTION

(a) Is primarily engaged in the compilation of economic data in accordance with the provisions of the Revenue Act, through its major report "Statistics of Income," and in providing Congress with basic information for income-tax legislation; also prepares special statements, schedules, and charts as required by the Secretary of the Treasury, Commissioner of Internal Revenue, and administrative officers.

(b) Secures all current year "office audit" and "field audit" returns from proving section and "accepted" returns from the preliminary audit section, edits and codes them for statistical purposes, applies the library code, and prepares control cards for the "office audit" and "field audit" returns for filing purposes in the records division.

(c) Transcribes data from the taxable corporation and certain nontaxable corporation returns and individual returns showing net income of \$100,000 and over to cards for future reference.

(d) The statistical information to be compiled is punched on tabulating cards and the cards are sorted to the prescribed classifications by means of tabulating and sorting machines.

(e) Selects returns of representative taxpayers for use in the administration of section 210 of the Revenue Act of 1917 and sections 327 and 328 of the Revenue Acts of 1918 and 1921, and prepares such special statistical information as may be required for administrative and other purposes.

(f) Performs all mechanical computations necessary in connection with the preparation of all statistical tabulations, schedules, and other statements compiled by the statistical section.

## TYPICAL CASES IN THE BUREAU

### THE "A" COMPANY—YEARS 1918 TO 1923

This corporation filed consolidated returns for the years 1918 to 1923, inclusive, including the operations of many associated companies. Among these companies were four, of which the parent company owned from 60 to 80 per cent of the capital stock. It was contended that agreements made with the owners of the minority interests would tend to prove that the stock was controlled through closely affiliated interests which would entitle them to consolidation. The claim for affiliation was particularly strong on one of the companies for the reason that the taxpayer claimed amortization on the assets owned by that company. The bureau held that three of the companies were not affiliated for the reason that the percentage of the stock shown to be owned directly was not sufficient to meet the requirements of the regulations as to affiliation. The other company was ruled affiliated for the reason that the relations of the minority interests were so close that ownership by the parent company of 80 per cent of the stock was held to be "substantially all" as required in the regulations.

A travel audit examination of the records of the corporation, together with its associated companies, was made by four auditors during a period of 11 months from October, 1921, to September, 1925. This examination disclosed features which could not easily be reconciled with statements previously made by the taxpayer.

#### ENGINEERING FEATURES

(a) *Value of mining property for invested capital and allowable depletion deduction from income.*—The taxpayer originally reported mining production on the basis of a fiscal year and claimed ownership of the mines directly. The travel audit report discloses that the parent company purchased the stock only of the affiliated companies owning mining property. The travel audit report also furnished information as to the proper production on the basis of a calendar year, which basis was used by the taxpayer in filing the tax returns. A revised engineering report was submitted, based upon the production for the calendar year.

(b) *Amortization.*—The taxpayer did not claim amortization on the original returns filed. A formal claim for amortization was filed on February —, 1924, and the claim was rejected for the reason that it was held that the taxpayer's products were not necessary for war activity. On February —, 1925, the solicitor ruled that the taxpayer's products were necessary for the prosecution of the war. On January —, 1926, the claim for amortization was again rejected for the reason that the taxpayer had not claimed amortization in the original returns filed, which ruling was based on a decision of the United States Board of Tax Appeals in another case. Shortly thereafter the Revenue Act of 1926 was approved. Section 1209 of that act provides that if the taxpayer has filed a claim for amortization prior to June 15, 1924, the claim may be allowed, notwithstanding the provisions of the Revenue Act of 1921. The case was then returned to the appraisal section for reconsideration.

An extensive field examination of the taxpayer's properties located in many different States and comprising a large number of separate operating properties was conducted by the engineer associated with the case and as a result of this examination the claim was allowed in part. The taxpayer vigorously protested the allowance and extensive conferences were held in this office, after which the amortization allowance was revised and an additional amount recommended.

The conferences held have resulted in the filing of data which must necessarily be further investigated before the case is closed. The taxpayer is now preparing additional information bearing upon the valuation of its mineral properties.

#### THE "B" COMPANY—YEARS 1917-18

Upon the examination of the consolidated return filed by this company and its associated companies, it was found necessary to verify the correctness of the adjustments shown therein. Accordingly, a field examination was made by auditors attached to the Washington office, which examination was completed under date of October —, 1919. In making this field examination, it required the services of 4 men over a period of 7 months, a total of 700 man-days. Upon the receipt of the report, the preparation of a letter notifying the taxpayer of its tax liability was immediately begun, but due to the immense volume of detail involved, the letter was not mailed until September —, 1920.

Upon receipt of this letter by the taxpayer, a protest was filed dated November —, 1920. During the period from November —, 1920, to December —, 1922, four formal conferences and several informal conferences were held to discuss the many complicated audit points as well as the questions arising as to the affiliated status of the various companies included in the return. The company's claim for amortization was also under consideration, involving the necessity of an engineer personally inspecting the plants owned by the company and the necessity of the office making a careful check of all costs claimed by the taxpayer to have been incurred during the war period. The original amount of amortization claimed was revised by amended claims filed in December, 1923, and a still further amended claim filed in 1925. The original report was submitted by the bureau of engineers in connection with this claim under date of February —, 1920, but due to the filing of amended claims above mentioned, it was necessary for the engineer to prepare amended reports under dates of January —, 1924, March —, 1925, and December —, 1926. In the meantime, also, the United States Board of Tax Appeals rendered a decision in another amortization case which necessitated a complete revision of the allowance previously made in this case.

A further decision by the United States Board of Tax Appeals relative to amortization which necessitated changes in the report was that of the G. M. Standifer Construction Co., wherein it was held that amortization was determinable upon a consolidated basis rather than a separate corporation basis.

Subsequent to the above-mentioned conferences the tax board decision of Union Metals Manufacturing Co. held that patents were a wasting asset, and that there was no option to be exercised by the taxpayer as to whether depreciation should be accrued. Previous to this time and in the prior audits of this case the bureau had held that the taxpayer might take depreciation on patents at its option. The board's decision relative to this item made it necessary that considerable additional time be spent in determining costs and valuation of patents in order that a proper determination could be made of the depreciation to be charged off over all years since the corporation was in existence. This was made necessary in order that invested capital could be properly determined.

Due to this decision of the tax board, invested capital of the taxpayer was largely reduced, causing a decided increase in its tax liability. The taxpayer then requested additional time in order that it might submit data to prove the value as of March 1, 1913, of a certain patent, in order that additional depreciation might be taken which would offset the reduction of invested capital above referred to. This time was of necessity granted and the taxpayer set to work to compile the enormous amount of data necessary to submit this proof.

In making the audit it became necessary to determine the correctness of the taxpayer's values of its inventories as at the close of both 1917 and 1918. In order to reach this determination it was necessary that specialists of the travel unit thoroughly drilled in inventory work be sent to the various plants of the taxpayer and an investigation made of the method of taking its inventory. This report was completed by the field investigators on August —, 1924.

In the meantime the question of affiliation had been consuming considerable time. There had been many changes in policy and many changes in the affiliation of this company. Practically all of these changes in the policy of the bureau toward the determination of the affiliation were due to either court or various board decisions which came from time to time over that period of years.

After the receipt of the third report of the engineers on March —, 1925, after the redetermination of the affiliations had been made, after the inventories had been subject to a field investigation, after the many other audit points which arise in a case of the magnitude of this case had been settled a revised letter was mailed to the taxpayer under date of August —, 1926, and to this letter a further protest was received from the taxpayer under date of September —, 1926. It was again found necessary in giving consideration to the taxpayer's protest to refer its brief to the travel unit in order that certain statements of facts set forth therein might be checked by the field men at the offices of the corporation.

After receipt of the field report relative to these protests there still appears many differences between the taxpayer and the bureau on many vital issues, particularly amortization, depreciation on patents, and inventories. After considerable discussion in conference held in this office the taxpayer withdrew its claim for additional depreciation on patents, the bureau revised its claim for amortization and the case was closed by final letter to the taxpayer dated December —, 1926.

#### THE "C" COMPANY, 1917 TO 1921, INCLUSIVE, 1917-1918-1919

After affiliations had been determined and a ruling made by the affiliations section of the consolidated returns division, a field investigation by auditors from the travel unit was deemed necessary. The field work for the year 1917 was handled separately and required separate investigation of not only the parent company itself but also an investigation for the many subsidiary companies which were not legally affiliated for this year, the largest of which was itself a parent company of a group of subsidiary companies.

After completion of the field examination an office audit of the case was immediately started. There were many difficult problems which arose during the investigation, especially invested capital items, due to reorganization of the company. Considerable time was consumed on these questions. It required in excess of two years of continuous work on the part of a force of from one to four men before the bureau was enabled to issue the first 30-day letter on December —, 1924.

Meanwhile in order that the work of later years would not be unduly delayed, an investigation by auditors in the travel unit had been started for the years 1918 and 1919. This investigation was commenced in September, 1921, and the report was submitted March —, 1923. Over this period of 18 months there was continuous work by a force of approximately four field auditors. Upon receipt of this travel unit report for the years 1918 and 1919 in March, 1923, the auditors who had become familiar with the case on the 1917 work were placed in charge of the audit for the years 1918 and 1919, reviewing the field audit report.

In the audit of the years 1918 and 1919 many difficult problems were encountered, among which was the question of the proper handling for income and invested capital of the employees' bonus of the corporation. Other important questions were the correct rate of depreciation, determination of certain deductions on account of money paid to a former officer of the corporation, the determination of the proper year in which certain price adjustments to customers should fall, and many other points which it is not considered necessary to specify. Several of these it was found necessary to refer to the Solicitor of Internal Revenue for his opinion.

After receiving the opinion of the general counsel's office in regard to those items which were considered of a legal nature, an A-2 letter was issued on 1918 and 1919. In the meantime the taxpayer had protested the determination of the 1917 tax as shown in the original 30-day letter on that year, and also after receipt of the 30-day letter on 1918 and 1919 had filed protest to those years. Due to the two protests being under consideration at the same time, it was deemed advisable to consolidate the two letters, handling the three years together. Accordingly many conferences were held in the bureau on the three years. It was found necessary to refer several items back to the field for verification. There appeared to be no common ground upon which the corporation and the bureau could reach an agreement.

Finally, on March —, 1926, as a result of this situation and also because of the fact that the general counsel's office had already considered many of the points which were not in dispute, the entire three years were forwarded to the general counsel's office, and conferences were held in an attempt to reach a

settlement with the taxpayer. After several formal conferences and much reworking of the audit points in the case, an agreement was finally reached and a letter issued in June, 1926. This letter was issued in the form of an agreement and was accepted by the taxpayer's representatives and approved by the Commissioner of Internal Revenue on July —, 1926. Final deficiency letters were then mailed and the tax paid by the corporation as determined.

#### 1920-1921

While the above years were in process, the field investigation for 1920 and 1921 was begun in May, 1925, by auditors in the travel unit of the consolidated returns division. The field report was completed and submitted to the bureau under date of July —, 1926, a period of 14 months. Engaged on this investigation were approximately five men for the entire period.

Prior to the receipt of the information in the bureau and while the field investigation was in process, the Revenue Act of 1926 was passed in February of 1926, carrying section 280 in it, which provided that certain limitations as to assessment and collection of taxes were applicable to companies which had been dissolved prior to this time.

Upon investigation of this case it was found that a considerable number of the subsidiaries of this corporation came within the provisions of section 280 of the 1926 revenue act, and it was necessary that letters be prepared immediately to protect the Government's interests. These were prepared on the basis of the best information which could be secured from the field auditors and forwarded prior to March —, 1926.

Upon receipt of the travel-unit report in July, 1926, the office examination was immediately begun and on December —, 1926, a 30-day letter was issued. This letter of necessity had to give effect to the adjustments made on account of the dissolved companies falling under section 280 of the Revenue Act of 1926, as mentioned above. This required considerable additional work.

On receipt of the 30-day letter the taxpayer requested that further explanation of the adjustments made therein be given, and an informal conference was held January —, 1927, for that purpose. A protest brief was filed by the taxpayer on January —, 1927, and the first of a series of formal conferences was held on February —, 1927. A few of the taxpayer's contentions were allowed at this conference, but most were held to be unsound.

As the statute of limitations as extended by waivers on file in the bureau expired on March —, 1927, a 60-day letter in compliance with section 274 (a) of the Revenue Act of 1926 was issued on February —, 1927. The taxpayer availed itself of the right to file an appeal with the United States Board of Tax Appeals, but then requested that further conferences be held in the bureau in order, if possible, to eliminate the necessity of presenting so voluminous a case before the tax board. This was agreed to by the general counsel's office, and a series of conferences has been held between the general counsel's office and the taxpayer. At these conferences members of the unit who participated in the field work and office work have been present, and two of the auditors who were in charge of the most important part of the work have been detailed in the general counsel's office for a period now in excess of 60 days working continuously in an attempt to close these latter years.

The field work for the years 1922 and 1923 has in the meantime been completed and the bureau is now working toward issuing a 30-day letter on those years at an early date.

#### THE "D" COMPANY, 1917 AND SUBSEQUENT YEARS

The usual field examination of the corporation records was made in this case, and after review the results thereof were transmitted to the taxpayer in the customary manner in the form of a letter showing in detail the computation of tax liabilities for the several years involved.

The major feature of this case was the computation of income realized as the result of sales on the installment plan.

Section 212(d) of the Revenue Act of 1926 contains the first statutory provisions relative to the installment method of reporting profit derived from sales of real and personal property. Section 1208 of the Revenue Act of 1926 provides that section 212(d) of the statute shall be retroactively applied in computing income under the provisions of prior revenue acts, including the Revenue Act of 1916. It also provides that any tax that has been paid under

acts prior to the enactment of the Revenue Act of 1926 if in excess of the tax imposed by such prior acts, as retroactively modified by its provisions, shall, subject to the statutory period of limitations properly applicable thereto, be credited or refunded to the taxpayer.

The audit was completed, and then consideration had to be given to a claim filed by the taxpayer requesting relief under the provisions of sections 327 and 328 of the Revenue Act of 1918.

Section 327 specifies the special cases in which the war and excess-profits taxes shall be computed as provided by section 328, i. e., cases in which it is impossible to determine the statutory invested capital; foreign corporations; and cases in which a mixed aggregate of tangible and intangible property has been paid in for stock or stocks and bonds and it is not possible to ascertain the respective values of each class of property. Mixed questions of law and fact are involved under this section.

Section 328 determines the method of computing the war and excess-profits taxes in the special cases as defined by section 327. Questions of fact are chiefly involved under this section.

In January, 1925, the computation of the tax liability was completed and the taxpayer advised in detail by the usual letter. As a result, several conferences were necessary. During this period the Board of Tax Appeals issued its decision in the case of B. B. Todd (Inc.) (1 B. T. A. 762) which held, in effect, that the method theretofore used by the bureau in computing income from installment sales had no authority in law. It was then necessary to rework the entire case in the light of this decision. This required the compilation of more data. Before it could be satisfactorily determined, it was necessary to send an auditor to the offices of the corporation to secure the required information to enable the bureau to recompute the tax under the decision mentioned. Incidentally, it required some 250 man-days in the field to secure the necessary information. After this reaudit was completed it was then necessary to reconsider the case under the relief provisions of the revenue act mentioned.

#### THE "E" COMPANY, YEARS 1917-1921

This corporation was engaged in the construction of ships under contracts providing for compensation on a flat-price basis, cost-plus, fixed-fee basis, cost-plus 10 per cent basis, etc. The income from the operations under these contracts was reported on a percentage of completion basis in accordance with article 36 (a) of Regulations 45, 62, 65, and 69. A field examination was ordered in this case for the years 1917 and 1918. Additional tax was assessed within the statutory period, against which the taxpayer filed claims in abatement.

Upon a more intensive examination of this report, it appeared that something was radically wrong with the taxpayer's method of reporting income, and it became necessary to conduct a special examination from this office. This examination involved an immense detail since it was found that the taxpayer's method of estimating the percentage of completion of each vessel did not coincide with the method employed by the United States Y Department whose auditors were located at the plant making an audit of the costs applicable to each contract. It became necessary for the auditors from this office to check and verify practically every cost item of any size incurred in the construction of these various vessels, and make a reallocation of these costs in accordance with what was considered the proper basis. After this verification had been completed at the taxpayer's office, it was found necessary to carry the work forward by an inspection of the records of the Y Department and of the United States Shipping Board. This examination extended over a period of two years and has resulted in a completely revised statement of income and expenditures of this corporation for the years involved.

Before the audit of the returns in this case could be completed, it was necessary to have the engineering features of the claim for amortization of war facilities settled, and to have engineers visit the plant in which war facilities were installed in order to make a physical inspection of the same and determine their condition on the date of the examination. Action on this feature of the case was suspended during the early part of 1926, awaiting a decision on the appeals of the G. M. Standifer Construction Corporation and the Manville-Jenckes Co., and a final amortization report was compiled under date of July —, 1927.



The G. M. Standifer Construction Corporation decision held that amortization of war facilities owned by a subsidiary corporation could be deducted from the income of a consolidated group, whereas the bureau had always held that the deduction was allowable only to the subsidiary company owning the facilities. The board also ruled upon other points in this case, but the one described is the only one applicable to the "E" case.

It was also important that the claim for amortization of war facilities filed by the "E" Company be checked in the field.

In spite of the difficulties which were presented in this case, the audit for the years mentioned has been completed, the result being an additional tax. The taxpayer is now engaged in preparing a protest in which it will undoubtedly endeavor to show that the Government's allocation of income is incorrect.

#### THE "F" COMPANY, YEARS 1920-21

This is a consolidated case in which the parent company operates a large store, maintaining in connection therewith another business. The parent company keeps its books on the basis of a fiscal year ending January 31, the subsidiary keeping its books on a calendar-year basis, necessitating an adjustment of the subsidiary operating accounts to conform to those of the parent. The business consists of cash and installment sales.

Tax returns for years prior to January 31, 1918, were filed on an accrual basis and on the installment basis subsequent thereto. In the audit of the case different questions were presented for settlement, among which was that of the right of the taxpayer to report income on the installment-sales basis. The original audit was made accepting the installment-sales basis as a method for determining income.

Subsequent to the issuance of this letter, but prior to the final closing of the case, the United States Board of Tax Appeals issued a decision in the case of B. B. Todd (Inc.), wherein it was stated to be the opinion of that board that the installment basis of reporting income was not within the statute of the Revenue Acts of 1918, 1921, and 1924, and that the commissioner had erred in promulgating the regulations which permitted this method of accounting for income. In accordance with this decision the case was reworked, eliminating installment-sales method and putting all years on the accrual basis. A revised letter in accordance with this method of determining income was mailed the taxpayer in December, 1925.

In February, 1926, the Revenue Act of 1926 was passed and among the provisions of that law was section 1208 which legalized the installment basis method of reporting income and made it retroactive for all prior years. In accordance therewith the case was again reworked, permitting the installment method of reporting income and a revised letter was mailed in August, 1926.

In the meantime the prior taxable years of 1917, 1918, and 1919 had been under consideration in the special assessment section of the unit and a 60-day letter had been mailed. The taxpayer protested the conclusion reached by the audit for the earlier years, and in January and February, 1927, a conference was held with the 60-day conference unit, at which certain decisions were reached relative to these years which resulted in additional income from installment sales in the years 1920 and 1921. Due to the decision reached in the 60-day conference unit relative to the earlier years, it was necessary that a further investigation of the taxpayer's books and records for the years 1920 and 1921 be made by the field officers of the bureau. This investigation is now in process.

#### THE "G" COMPANY, 1918, 1919, 1920

This is a consolidated group of corporations consisting of very many companies. As would be expected in a case consisting of so many corporations, there was considerable delay in determining the affiliations, and it was not until January —, 1922, that an affiliation ruling was made on the years 1918 and 1919. The ruling for 1920 was issued on February —, 1922. Immediately after issuance of the affiliations ruling a field audit report was begun by auditors in the travel unit, and their report was completed December —, 1923. The case was then assigned for office audit, and on February —, 1924, a letter setting forth the results of the audit was forwarded the taxpayer.

Due to refunds due to some of the companies in excess of \$50,000 the case was forwarded to the solicitor's office under date of April —, 1924, and

on review by him was returned to the unit in August, 1924, with a recommendation that certain changes be made in the audit. These changes were of a far-reaching nature and necessitated the reaudit of the entire case, and it was not until January —, 1925, that the letter was forwarded to the general counsel for the second time for his approval.

The magnitude of the work involved in making these necessary changes can best be understood by the fact that it was necessary to change the income and invested capital as determined in the field audit in practically the entire number of companies in the consolidation. The general counsel approved the unit's action in the second letter on November —, 1925, and letters were mailed to the taxpayer under date of December —, 1925. Briefs were immediately filed by the taxpayer protesting the adjustments made in the letter for 1918 on December —, 1925, and for 1919 and 1920 on June —, 1926.

Many conferences were held in the bureau with the taxpayer on the points raised in his brief of protest and eventually revised letters were prepared and forwarded to the general counsel for approval in September, 1926. These were returned approved in December, 1926.

In the meantime the groups of companies which had been ruled not affiliated with the main consolidation but which were related through their close stock ownership or control of operation had been completed, and as these companies had originally been included in the consolidated return filed by the parent corporation it was found that when the tax liability attributable to them was deducted from the tax liability as paid by the parent company at the time of filing the return, that the parent company had a refund of  $10\frac{1}{2}x$  dollars coming to it, while on the other hand the Government had coming from the nonaffiliated companies approximately  $12x$  dollars, the result being a net additional tax due the Government of  $1\frac{1}{2}x$  dollars. Owing to the fact that there would be interest payable on any refund to the parent company and none collectible on the additional tax due from the subsidiary companies except from the date of passage of the 1926 revenue law the net result when the interest was taken into consideration would have been a refund of approximately  $x$  dollars.

About this time the Board of Tax Appeals issued a decision in the case of the Mather Paper Co. (3 B. T. A. 1), wherein the board held that where one of a group of corporations which filed a consolidated return had advanced the funds to the parent corporation of the consolidation with which to pay its pro rata share of the tax shown on the consolidated return that credit should be given to it for this amount in the event that it was later held to be not affiliated with the parent corporation of the consolidation. In order to avoid payment of interest on the proposed refund to the parent company, the case was reworked in accordance with this decision and on July —, 1927, a revised letter was issued the taxpayer.

The taxpayer, after several extensions of time, on October —, 1927, filed a brief in protest to the many adjustments made in the letter of July 1, and that brief is now being considered preliminary to a conference. In the meantime the field examination for the years 1921, 1922, and 1923 has been completed and a letter on these years is now in course of preparation.

#### THE "H" COMPANY, 1909 TO 1918, INCLUSIVE

The affiliation ruling as made for the years 1917 and 1918 listed a large number of companies which formed this consolidation. These companies were merged into this consolidation many years prior to the passing of the income-tax law of 1917.

After determination of the affiliation, a group of auditors was assigned to make an examination for the years 1909 to 1918, inclusive. This examination was begun in April, 1920, and completed February 1, 1921. The report submitted covered approximately 500 typed pages of ordinary letter size paper, and in addition many exhibits on extra large sheets of paper supporting the schedules submitted in the body of the report. The letter which was issued in May, 1921, based on this field report, consisted of 455 typed pages.

Upon receipt of this letter the taxpayer filed 58 separate and distinct briefs at intervals during a period of 14 months wherein exception was taken to many hundreds of adjustments made in the letter, and conferences were held with the taxpayer in an attempt to reach an agreement on the final tax liability. One of the principal differences was that the taxpayer itself had not coordinated the various individual units of the consolidation, the result being that many

items of a similar nature were handled by the different companies in their tax returns in an entirely opposite way, the reason for this being that due to the magnitude of the consolidation there had been no effort made by the parent corporation to standardize its bookkeeping and other records up to this time. This condition existed through 1921, and even to the present date, due to the size of the company, there are still items of a similar nature being handled differently by the various companies.

Some idea of the amount of work involved can be gained by the fact that many of these corporations when taken into the consolidation at the time of organization were taken in by issuance of stock of which there was no market value at that time. It became necessary to send engineers to secure data to determine the value of the assets received in exchange of this stock. Inasmuch as some of the companies, as indicated above, consisted of consolidations themselves, it was necessary to even go further back and find the value of the assets purchased by the previous company. Some of these valuations had to be made as far back as the early eighties.

After considerable discussion and review of the various briefs filed by the taxpayer it was finally agreed by the bureau that it was necessary for a correct determination of the tax liability for the years under review that all of the companies be treated as a unit and the various subsidiaries should be adjusted to a uniform basis. To do this required practically an entire new field investigation. Accordingly a corps of auditors under the supervision of an experienced field examiner began a new field investigation of the corporation.

To place the various companies of the consolidation on a uniform basis required the segregation of depreciable and depletable property from the property not subject to depreciation and depletion as of the date of organization of the company and the subsequent building up of this investment in plant and depletable property by the yearly additions since that date, and the crediting of retirements and sales to this account. This was a stupendous and tedious undertaking and the report of the second group of field investigators when completed consisted of approximately 2,500 typed pages and resulted in largely increasing the tax liability in 1917 and in 1918 over that shown on the taxpayer's return. This increase is without giving effect to amortization claimed by the taxpayer in its 1918 return.

The audit of this group of companies for the years 1909 to 1918 was equivalent to auditing about 2,100 cases for one year and resulted in a large increase of tax.

In connection with the audit of the case the taxpayer as indicated above, claimed amortization in 1918. In support of this, 28 bound volumes, containing an average of some 500 large typed sheets, were submitted. It has been necessary in arriving at the correctness of this amortization claim of the taxpayer to check the cost of the various assets upon which amortization is claimed and determine the correctness thereof of the data submitted in these 28 volumes. In addition to the accounting detail in checking the cost, several engineers of the bureau have been almost constantly engaged for the past three years in working out the details necessary to determine the correct amortization on so large a volume of property.

After completion of the field of work indicated above, a letter was forwarded to the taxpayer setting forth the results of the second field examination for the years 1909 to 1918. A further protest was then filed by the taxpayer. After a considerable number of conferences and several trips of various auditors engaged on the work to the offices of various corporations on which points had been raised in the brief of the company, a letter covering the years 1909 to 1918 was issued on November —, 1926.

This is an indication of the difficulties encountered in closing this type of case in the bureau.

It has not been the technical difficulties that have arisen in this case, although there have been many of these also to consider, that has required the major portion of the time that has been employed in auditing this case. It has been due to the size of the consolidation that has required the great amount of time that has been consumed in closing the case. As an indication of what is meant, in the report of the field examiners for subsequent years, that is, 1919, 1920, and 1921, it was necessary to set up approximately 1,500 balance sheets and 10,000 adjustments to these balance sheets. This was considered the minimum amount of work that was absolutely essential to correctly determine the tax liability.

## THE "A" LUMBER COMPANY

*Chronological history of 1917 return in connection with the audit*

- May 1, 1918. The 1917 return of the above-named case was filed.
- Dec. 18, 1919. Taxpayer requested 60-day extension of time for filing general forest-industries questionnaire.
- Dec. 30, 1919. Extension for 30 days granted.
- Aug. 14, 1920. General forest-industries questionnaire mailed; received August 17, 1920.
- Sept. 4, 1920. Further information requested.
- Oct. 28, 1920. Conference.
- Dec. 1, 1920. Information requested from M Co.
- Feb. 23, 1921. Conference.
- Mar. 7, 1921. General forest-industries questionnaire, N Co.
- Mar. 8, 1921. Reply requested to office letter of September 4, 1920, and further information requested.
- Apr. 7, 1921. The return for 1917 was transferred to engineering division, timber section.
- July 20, 1921. Reply requested to office letters of September 4, 1920, and March 8, 1921.
- July 21, 1921. Additional information requested on N Co.
- Aug. 6, 1921. Reply to office letters of September 4, 1920, and March 8, 1921.
- Aug. 11, 1921. Forest-industries schedules for 1919 of O Co.
- Aug. 12, 1921. Reply to office letter of July 21, 1921.
- Feb. 13 and 14, 1922. Conference. Additional information requested.
- Mar. 8, 1922. Taxpayer requested extension of time for filing information called for in conference of February 14, 1922.
- Mar. 13, 1922. Time extended until March 31.
- Mar. 27, 1922. Reply to request for information in conference of February 14, 1922. A revenue agent's report dated September 30, 1922, covering the years 1917 and 1918 was forwarded during this time.
- Nov. 11, 1922. Taxpayer advised that March 1, 1913, value was then under advisement.
- Nov. 23, 1922. Taxpayer requested that no values be set until receipt of further information, which it will furnish by December 1, 1922.
- Nov. 23, 1922. Final extension for filing information granted until December 1, 1922.
- Jan. 22, 1923. Conference.
- Apr. 17, 1923. Taxpayer requested another conference to consider additional data.
- Apr. 21, 1923. Conference set for April 26.
- Apr. 26, 1926. Conference.
- Nov. 30, 1923. Original valuation report on 1917 and 1918.
- Dec. 8, 1923. Case returned to Section G.

Numerous briefs were submitted over a period of four years which, according to the taxpayer's introductory statement, contained new data and evidence and stated that other data were being prepared, and the audit and valuation section was requested to give careful consideration thereto.

Briefs were submitted as follows:

Date	No.	Contents
Jan. 11, 1923	1	General data.
July 31, 1923	2	Proof of valuation and invested capital.
-----, 1924	3	Protesting additional taxes for 1917 and 1918, as shown in bureau letter dated Mar. 11, 1924.
Do.-----	4	Additional data.
Do.-----	14	General data.
Jan. 14, 1926	(2)	Do.
Jan. 25, 1926	(2)	Do.

<sup>1</sup> Supplemental brief.

<sup>2</sup> Not numbered.

Other data has been submitted from time to time on which no dates are shown. An appraisal of the depreciable plants was submitted during 1923.

Mar. 11, 1924. An A-2 letter covering the years 1917 and 1918 based on the R. A. R. dated September 30, 1922, was mailed to the taxpayer. Brief No. 3 was submitted protesting audit and valuation adjustments.

May 9 and 10, 1924. Conference was held. At this conference the taxpayer requested that time be granted in which to furnish additional data and a further hearing given.

May 21, 1924. Additional information requested.

June 10, 1924. Reply to letter of May 21, 1924.

July 16, 1924. Conference as per request.

Oct. 8, 1924. In accordance with taxpayer's request and T. D. 3616, the file containing the years 1917 and 1918 was transmitted to the review division of the solicitor's office. In this office numerous conferences were granted the taxpayer in accordance with his requests, some lasting several days. Additional data was furnished by the taxpayer as evidenced by brief No. 4 and supplemental brief No. 4.

Nov. 11, 1924. Additional information requested.

Nov. 13, 1924. Reply to letter of November 11, 1924.

Aug. 2, 1926. The case was returned to Section G.

Sept. —, 1926. The taxpayer requested that if the values contended for were not allowed by the review division, the case to be sent to special assessment section. Case prepared and forwarded to special assessment section.

Oct. 7, 1926. On learning the case was in special assessment section, the taxpayer wrote to this office requesting the case be withdrawn from special assessment. Immediately after receipt of this letter the taxpayer in an oral hearing requested that the mailing of the NP-2 letter be held up in order that it could submit information in connection with installment sales. This request was granted.

Dec. 17, 1926. NP-2 letter mailed.

Apr. 1, 1927. At request of general counsel conference set for April 11, 1927.

Apr. 7, 1927. At request of taxpayer conference postponed to May 23, 1927.

May —, 1927. Appeal to the United States Board of Tax Appeals filed.

Numerous informal conferences were granted the taxpayer by this office and the general counsel's office at request.

#### THE "X" OIL COMPANY

Oct. 20, 1923. Affiliation ruling made after extended conference and submission of voluminous data by taxpayer.

November and

December,

1923. Valuation reports submitted by engineering division after numerous conferences held with taxpayer in connection with valuations.

Dec. 22, 1923. Audit conference.

Jan. 24, 1924. Thirty-day letter prepared and forwarded to review section.

Jan. 26, 1924. A conference was held with the taxpayer, resulting in a revision of the proposed letter, after which the revised letter was forwarded to claims committee, solicitor's office for review.

July 7, 1924. An informal conference was held with the taxpayer.

July 5, 1924. Taxpayer filed a brief covering audit points that were involved in proposed audit letter.

Aug. 6, 1924. An amended return for the year 1917 filed.

Sept. 23, 1924. An amended return for 1918 was filed.

Sept. 11, 1925. The oil and gas section submitted report on depreciation to answer taxpayer's protest filed on August 5, 1924.

Sept. 25 and

26, 1924.

Supplemental valuation reports received from engineering division based upon amended return.

Oct. 6, 1924. Taxpayer filed protest to valuation reports.

Oct. 8, 1924. Conferences held.

- Oct. 14, 1924. Supplemental valuation report revising report of September 11, 1924, based upon supplemental information submitted by taxpayer.
- Dec. 29, 1924. Audit completed for 1917 and 1918.
- Jan. 14, 1925. Briefs were filed, including new data necessitating a reaudit.
- Jan. 28, 1925. Another brief filed necessitating field investigation and reaudit.
- Jan. 20, 1925. Supplemental valuation report received based upon additional information submitted by the taxpayer.
- Mar. 10, 1925. Revision of affiliation ruling.
- Mar. 12, 1925. Brief filed by the taxpayer.
- Nov. 12, 1925. Audit completed and forwarded to the claims committee, general counsel's office, for review.
- Feb. 12, 1926. Thirty-day letter mailed.
- (?) Extension of 30 days requested by taxpayer.
- Apr. 3, 1926. Protest filed.
- May 18 and 19, 1926. Conference held, at which the taxpayer insisted that travel auditor be sent to investigate the records for the year 1917.
- July 6, 1926. Taxpayer filed another brief.
- Dec. 3, 1926. Supplementing travel auditor's report.
- Sept. 22, 1926. At request of taxpayer certain issues were referred to the general counsel's office, which issues are still pending.

The taxpayer has filed 56 claims for refund, abatement, and credit based upon issues brought out and discussed at the various conferences held in the bureau.

Statement of income-tax returns filed for the fiscal year July 1, 1926, to June 30, 1927

1013. On interest paid at source	1040				1040-A				1040-B. Individual nonresident alien	1040-C. Individual nonresident alien
	Individual			Total	Individual, under \$5,000			Total		
	Part paid	Full paid	Nontaxable		Part paid	Full paid	Nontaxable			
Alabama.....	30	2,617	6,637	5,566	14,820	1,024	7,139	5,588	13,751	36
Arizona.....	8	685	2,409	2,446	5,540	1,162	3,424	1,518	5,104	6
Arkansas.....	12	1,181	4,251	5,279	10,711	278	4,012	4,800	9,090	0
First California.....	367	17,021	34,098	31,456	82,575	3,642	48,104	26,944	78,690	73
Sixth California.....	90	13,440	38,036	40,452	91,928	3,460	42,812	28,022	74,294	0
Colorado.....	115	2,165	7,828	9,000	18,993	3,585	8,212	7,262	15,999	3
Connecticut.....	66	6,002	13,775	13,344	37,121	1,118	26,333	13,740	47,191	0
Delaware.....	20	958	2,081	2,007	3,046	2,338	2,232	2,048	4,618	1
Florida.....	58	7,490	13,154	14,152	34,796	2,108	12,702	7,725	22,535	0
Georgia.....	111	3,442	6,970	7,641	18,053	2,598	9,901	7,781	20,280	0
Hawaii.....	14	985	1,114	2,601	4,700	427	1,828	2,056	4,311	58
Idaho.....	12	408	2,911	3,802	7,121	90	2,679	2,279	5,048	73
First Illinois.....	1,914	33,237	65,084	53,737	152,058	12,232	112,095	84,997	209,324	0
Eighth Illinois.....	58	1,791	9,421	11,868	33,080	278	11,981	8,937	21,196	0
Indiana.....	96	5,731	14,984	16,186	36,901	1,443	24,319	17,047	42,809	0
Iowa.....	85	2,306	8,914	10,304	21,524	1,550	14,788	14,234	29,572	0
Kansas.....	9	1,929	10,497	9,871	22,297	414	6,965	3,881	11,260	5
Kentucky.....	34	2,200	7,914	5,845	15,959	585	10,033	7,148	17,766	3
Louisiana.....	185	4,543	9,495	9,729	23,767	994	7,906	7,111	16,101	23
Maine.....	132	1,191	4,971	5,731	11,893	145	4,284	3,671	8,100	0
Maryland.....	242	10,075	13,881	15,06	45,016	4,515	36,653	23,942	65,110	6,701
Massachusetts.....	461	17,625	33,242	48,668	99,535	6,527	62,507	55,456	124,490	647
Michigan.....	847	16,997	34,594	28,061	79,612	5,369	62,413	34,722	102,701	0
Minnesota.....	202	7,341	12,511	13,439	33,291	1,448	18,763	13,173	33,384	0
Mississippi.....	10	819	3,430	5,743	9,992	199	3,309	4,109	7,617	0
First Missouri.....	318	5,604	13,179	13,394	32,237	1,445	16,440	17,255	35,150	10
Sixth Missouri.....	62	2,920	6,983	5,927	15,830	1,445	9,386	6,612	16,963	2
Montana.....	19	933	3,266	2,790	6,989	417	6,264	2,933	9,614	10
Nebraska.....	13	1,574	7,599	11,244	20,417	349	7,110	5,942	13,401	7
Nevada.....	7	166	1,142	607	1,915	98	2,213	607	2,918	28
New Hampshire.....	7	987	3,550	4,071	8,608	150	3,686	3,008	6,884	0
First New Jersey.....	98	4,786	9,030	7,748	21,624	932	9,290	5,186	15,408	0
Fifth New Jersey.....	32	12,993	32,964	20,502	66,459	2,789	46,178	27,438	76,395	55
New Mexico.....	5	464	1,629	1,313	3,406	1,110	1,411	1,150	2,671	0
First New York.....	62	13,870	40,338	29,702	83,970	4,616	50,982	42,036	97,638	0
Second New York.....	1,694	24,156	37,802	23,576	87,534	5,946	52,535	45,349	103,830	0
Third New York.....	408	32,966	19,371	16,267	68,604	3,452	30,654	30,756	68,841	42
Fourth New York.....	127	6,720	24,772	17,975	49,467	1,357	30,919	24,435	66,711	27
Twenty-first New York.....	136	2,491	10,581	10,379	23,451	515	12,739	9,934	23,188	0

Statement of income-tax returns filed for the fiscal year July 1, 1926, to June 30, 1927—Continued

	1013. On interest paid at source	1040			1040-A			1040-B. Individual nonresident alien	1040-C. Individual nonresident alien	
		Individual		Total	Individual, under \$5,000		Total			
		Part paid	Full paid		Nontaxable	Part paid				Full paid
Twenty-eighth New York.....	162	6,907	15,928	16,606	39,441	3,881	30,980	20,945	55,806	959
North Carolina.....	35	1,618	6,861	8,483	16,962	243	7,795	10,727	18,765	29
North Dakota.....	0	590	1,984	3,893	6,467	103	1,850	1,644	3,597	65
First Ohio.....	61	4,339	14,680	10,257	29,276	724	16,322	11,663	28,709	325
Tenth Ohio.....	75	2,510	5,036	6,906	14,452	895	8,572	8,123	17,590	0
Eleventh Ohio.....	49	1,757	6,324	4,936	13,017	436	7,137	6,168	13,741	133
Eighteenth Ohio.....	705	9,498	18,780	17,684	45,962	4,262	41,972	28,207	74,441	69
Oklahoma.....	10	5,702	8,029	8,735	23,466	1,455	7,611	7,372	16,438	129
Oregon.....	109	2,139	8,010	6,344	16,493	526	9,947	4,592	15,065	11
First Pennsylvania.....	540	17,146	36,404	45,004	98,554	4,146	52,580	36,238	92,974	374
Twelfth Pennsylvania.....	149	2,747	7,536	9,214	19,497	3,167	12,761	15,637	31,565	45
Twenty-third Pennsylvania.....	462	8,333	23,498	29,184	63,015	5,780	59,442	47,775	112,947	39
Rhode Island.....	24	2,596	6,885	5,179	14,659	462	6,962	7,595	15,019	0
South Carolina.....	11	482	2,797	4,118	7,397	180	3,066	3,350	6,636	1,693
South Dakota.....	1	295	2,516	4,903	7,714	52	1,791	3,050	4,893	20
Tennessee.....	59	2,978	6,615	6,622	16,215	872	8,907	8,539	18,318	0
First Texas.....	39	5,596	17,984	13,334	36,914	1,206	14,562	10,599	26,367	0
Second Texas.....	15	5,149	14,702	12,290	32,141	914	10,630	7,657	19,201	210
Utah.....	44	715	2,232	2,786	5,733	159	3,568	4,054	7,781	1
Vermont.....	13	858	2,329	2,133	5,390	55	2,550	1,289	3,894	0
Virginia.....	42	3,328	7,324	8,271	17,923	724	10,830	8,879	20,433	12
Washington.....	155	3,394	14,653	11,046	29,093	2,378	24,188	10,775	37,341	4
West Virginia.....	65	6,235	7,166	7,166	14,785	361	10,773	7,269	18,403	23
Wisconsin.....	645	7,561	14,543	24,170	46,274	1,881	27,918	24,444	54,243	0
Wyoming.....	8	469	1,434	1,964	3,867	192	3,722	1,468	5,352	80
Total.....	11,544	369,959	838,747	813,271	2,021,977	108,854	1,215,737	914,924	2,239,515	93,850



1041. Fi- ducuary	1042. Normal tax paid at source	1065. Part- ner- ship	1920				1122. Corpora- tion sub- sidiary	1120- L. P. P.		1120-NT		Grand total
			Corporation			Total		Life-insurance company		Non-taxable		
			Part paid	Full paid	Non- taxable			Part paid	Full paid	Non- taxable		
Alabama.....	273	0	2,938	1,255	166	2,825	4,246	98	4	0	3	36,204
Arizona.....	51	0	925	220	105	1,267	1,593	59	0	0	0	13,316
Arkansas.....	187	1	3,505	611	329	1,892	2,832	89	0	0	3	26,430
First California.....	34	12,838	2,597	804	7,211	10,612	438	438	0	0	0	194,975
Sixth California.....	3,438	0	2,294	1,136	6,216	9,646	417	0	0	0	0	193,089
Colorado.....	256	1	3,150	890	460	5,715	7,065	312	3	0	0	46,130
Connecticut.....	1,841	7	3,141	1,443	646	4,470	6,559	221	0	0	0	96,275
Delaware.....	305	2	4,959	370	121	1,078	1,569	175	0	0	0	12,170
Florida.....	869	4	2,525	859	121	8,314	11,698	183	0	0	0	75,148
Georgia.....	370	21	3,453	392	360	3,750	5,480	130	0	0	0	47,909
Hawaii.....	246	0	349	273	28	360	661	14	0	0	0	10,413
Idaho.....	32	0	1,683	256	135	2,496	2,496	21	0	0	0	16,486
First Illinois.....	8,081	24	28,039	6,428	2,081	15,082	23,591	1,321	16	4	6	431,854
Eighth Illinois.....	387	0	6,737	1,082	707	4,082	5,871	197	0	0	0	57,794
Indiana.....	431	0	6,975	2,115	1,779	3,435	7,329	137	0	0	0	95,213
Iowa.....	549	9,423	1,306	763	6,679	1,078	8,520	43	4	7	0	71,387
Kansas.....	185	3	7,139	779	538	3,987	5,304	89	7	5	8	46,392
Kentucky.....	739	0	4,042	1,151	642	4,071	5,864	108	0	0	0	44,585
Louisiana.....	151	3	3,025	0	1,867	4,040	5,907	272	3	5	5	50,596
Maine.....	347	5	1,815	527	340	2,673	3,540	135	0	0	0	25,975
Maryland.....	2,616	34	4,229	2,265	563	5,741	8,563	473	0	0	0	133,143
Massachusetts.....	8,558	34	9,110	4,103	1,582	12,957	18,642	584	7	3	0	269,332
Michigan.....	1,541	290	10,846	5,217	274	8,927	14,418	662	7	0	0	214,340
Minnesota.....	893	0	6,798	1,829	857	8,866	11,552	589	0	0	0	86,764
Mississippi.....	72	0	2,712	502	347	1,209	2,058	41	1	0	0	22,468
First Missouri.....	997	2	3,569	885	6,762	9,749	418	418	8	0	0	82,944
Sixth Missouri.....	231	2	4,209	1,233	567	4,823	6,623	325	9	1	9	44,358
Montana.....	58	3	1,787	360	294	3,543	4,197	82	2	0	0	22,914
Nebraska.....	220	1	4,506	750	417	3,528	4,695	126	11	2	6	43,593
Nevada.....	10	0	468	100	49	538	987	8	0	0	0	6,341
New Hampshire.....	199	0	1,268	270	148	750	1,208	50	0	0	0	18,386
First New Jersey.....	1,241	0	3,554	907	377	2,779	4,063	88	0	0	0	46,076
Fifth New Jersey.....	2,434	6	4,514	2,739	1,219	9,650	13,608	224	5	0	0	166,568
New Mexico.....	30	1	762	126	92	808	1,026	26	1	0	0	8,442
First New York.....	2,536	8	6,359	3,573	123	13,488	17,184	0	0	0	0	208,772
Second New York.....	11,443	169	12,065	4,738	2,530	25,863	33,131	957	0	0	0	295,221
Third New York.....	2,730	13	7,445	4,811	1,971	19,063	25,846	1,234	0	0	0	176,486

Statement of income-tax returns filed for the fiscal year July 1, 1926 to June, 30, 1927—Continued

1041. Fi- duciary	1042. Normal tax paid at source	1045. Part- nership	1920				1122. Corpora- tion sub- sidiary	1120- L. F. P.		Grand total
			Corporation			Total		Life-insurance company		
			Part paid	Full paid	Non- taxable			Part paid	Non- taxable	
1,388 1,705 1,272 2,236 43 589 313 248 2,305 229 186 8,197 2,234 762 41 374 467 360 66 135 1,154 355 400 873 25	4 2 89 0 2 3 0 0 5 0 2 21 0 22 0 1 11 3 0 6 2 8 0 9 0	4,883 4,114 4,972 4,012 1,629 3,380 3,126 2,524 4,681 4,080 3,945 9,262 2,880 9,939 1,190 2,207 2,217 4,121 7,098 7,618 1,251 1,174 6,331 5,738 3,228 7,007 902	1,613 983 1,847 1,079 266 1,602 925 1,151 2,980 1,207 854 3,787 1,153 2,512 669 332 189 1,291 1,415 1,448 231 213 1,570 1,436 1,110 3,032 221	1,033 432 642 979 315 481 474 371 402 343 934 0 770 129 357 223 456 771 679 408 134 471 967 526 1,073 108	7,028 4,523 5,181 6,607 3,592 5,233 4,125 2,467 7,550 4,522 5,201 6,975 2,025 3,178 10,469 2,666 3,335 2,626 3,396 4,850 3,655 2,467 1,141 4,552 8,815 3,898 9,996 1,162	221 145 294 0 12 237 172 120 620 358 33 770 228 166 1,134 34 28 162 265 260 94 34 1 487 140 403 34	0 0 2 0 0 2 0 3 1 0 0 1 7 1 5 1 0			

*Total returns classified by revenue agents January 1, 1927, to September 30, 1927*

Division and collection district	Total returns classified	1040						1120						Total returns filed during 1926						
		Accepted			Office audit			Field audit			Accepted				Office audit			Field audit		
		Number	Per cent	Total	Num-ber	Per cent	Total	Num-ber	Per cent	Total	Num-ber	Per cent	Total		Num-ber	Per cent	Total			
Atlanta: Georgia	22,194	6,910	40	5,552	32	4,660	27	17,122	1,590	31	1,089	22	2,368	47	5,072	18,289	5,612			
Baltimore: Delaware	5,903	2,530	58	1,246	28	618	14	4,304	822	55	429	28	258	17	1,509	4,772	1,445			
Maryland	53,807	29,066	61	14,022	29	4,985	10	48,073	4,028	52	1,856	24	1,880	24	7,734	43,724	8,107			
Total	61,710	31,596	60	15,268	29	5,603	11	52,467	4,850	52	2,256	25	2,108	23	9,243	48,496	9,552			
Boston:																				
Maine	11,704	8,796	51	1,420	13	632	6	10,848	323	35	105	11	488	53	916	11,290	3,608			
Massachusetts	115,477	83,100	85	6,361	7	8,150	8	97,611	12,974	73	78	4	814	27	17,866	96,974	13,991			
New Hampshire	8,893	6,829	88	498	6	475	6	7,802	678	6	45	4	368	34	1,091	8,565	1,229			
Vermont	5,710	4,053	87	172	4	418	9	4,043	789	75	4	4	274	25	1,067	5,341	1,153			
Total	141,844	102,778	85	8,451	7	9,675	8	120,904	14,764	71	232	1	5,944	28	20,940	122,170	21,981			
Brooklyn: First New York	92,694	54,991	72	10,227	13	11,403	15	76,621	8,941	56	2,197	14	4,935	30	16,073	82,636	14,659			
Buffalo:																				
Twenty-first New York	27,778	16,535	70	4,466	19	2,504	11	23,505	2,529	59	1,075	25	669	15	4,273	20,536	4,825			
Twenty-eighth New York	46,585	23,605	60	8,157	21	7,552	19	39,314	3,485	48	2,167	30	1,589	22	7,271	41,317	7,594			
Total	74,363	40,140	64	12,623	20	10,056	16	62,819	6,014	52	3,272	28	2,258	20	11,544	61,853	12,419			
Chicago: First Illinois	153,519	97,830	75	13,142	10	20,269	15	131,241	14,136	63	1,802	8	6,340	29	22,278	136,583	22,873			
Cincinnati: First and eleventh Ohio	47,018	29,693	77	4,980	13	4,081	10	38,754	5,521	67	519	6	2,233	27	8,264	39,296	9,086			
Cleveland:																				
Tenth Ohio	17,279	10,643	78	1,201	9	1,770	13	13,614	2,316	63	448	12	901	25	3,665	13,334	4,196			
Eighteenth Ohio	54,754	29,857	68	6,740	15	7,597	17	44,194	6,035	57	1,686	16	2,839	27	10,560	46,039	11,295			
Total	72,033	40,500	70	7,941	14	9,367	16	57,808	8,351	59	2,134	15	3,740	26	14,225	59,973	15,491			
Columbia: South Carolina	9,910	2,876	47	1,425	23	1,857	30	6,158	2,100	58	505	13	1,087	29	3,752	9,376	4,045			

Total returns classified by revenue agents January 1, 1927, to September 30, 1927—Continued

Division and collection district	Total returns classified	1040				1120				Total returns filed during 1926	
		Accepted		Office audit		Field audit		Total		1040	1120
		Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent		
Dallas:	38,480	19,919	62	9,707	30	2,419	8	32,045		35,985	7,049
First Texas.....	36,179	18,075	59	7,885	25	4,768	16	30,678		31,242	5,762
Second Texas.....											
Total.....	74,659	37,994	61	17,542	28	7,187	11	62,723		67,177	12,811
Denver:											
Arizona.....	6,509	4,442	88	304	6	316	6	5,062		4,614	1,553
Colorado.....	29,769	11,523	68	1,641	10	3,771	22	16,935		18,937	7,286
New Mexico.....	4,513	2,504	70	845	24	205	6	3,554		3,977	1,100
Wyoming.....	4,974	2,691	73	698	19	322	8	3,711		4,246	1,549
Total.....	39,855	21,160	72	3,488	12	4,614	16	29,262		31,834	11,498
Detroit:											
First Michigan.....	84,719	59,881	83	8,208	12	3,491	5	71,665		78,817	13,458
Greenboro: North Carolina.....	6,405	122	67	22	12	37	20	4,128		16,320	6,805
Honolulu: Hawaii.....	4,966	3,962	85	48	1	686	14	4,666		4,968	608
Huntington: West Virginia.....	19,365	7,090	50	4,396	31	2,741	19	1,653		1,036	5,365
Indianapolis: Indiana.....	44,258	20,441	91	348	8	3,377	8	8,010		15,655	5,365
Jacksonville: Florida.....	64,281	45,010	83	4,076	8	4,546	8	7,962		35,506	8,599
Louisville: Kentucky.....	21,637	8,425	55	4,429	29	2,597	16	15,451		17,141	9,437
Milwaukee: Wisconsin.....	57,365	33,969	77	6,685	15	3,397	8	2,404		17,583	6,267
Nashville:											
Alabama.....	18,234	9,637	70	1,884	14	2,252	16	2,843		14,095	4,099
Tennessee.....	20,237	10,408	67	2,362	15	2,708	17	2,261		15,312	5,119
Total.....	38,471	20,045	69	4,246	15	4,960	16	5,104		29,407	9,218
Newark:											
First New Jersey.....	22,726	13,456	72	2,124	11	3,216	17	1,984		20,351	3,763
Fifth New Jersey.....	76,909	49,426	78	8,857	14	4,798	8	8,031		57,718	12,130
Total.....	99,635	62,882	77	10,981	13	8,014	10	10,015		78,099	15,893

New Haven:	41,877	29,667	83	5,259	15	827	2	35,753	4,617	75	73	23	1,422	1	6,124	35,437	6,408
Connecticut.....	59,722	35,451	71	10,318	21	4,394	8	50,163	6,934	75	73	27	2,612	2	9,550	50,262	9,347
Fourteenth New York.....	13,642	10,142	78	604	5	2,172	17	12,918	1,805	66	66	32	857		2,724	14,417	2,638
Total.....	117,241	75,260	76	16,181	16	7,393	7	98,834	13,356	72	72	27	4,891	1	18,407	100,116	18,392
New Orleans:																	
Louisiana.....	27,997	18,646	82	2,337	10	1,663	7	22,666	3,697	69	69	28	1,512	2	5,331	24,585	5,801
Mississippi.....	10,823	7,752	85	669	7	753	8	9,174	1,328	80	80	14	226	6	1,649	9,876	2,216
Total.....	38,820	26,398	83	3,026	10	2,416	7	31,840	5,025	72	72	25	1,738	3	6,980	34,461	8,017
New York: Second and third New York	360,350	248,619	80	42,613	14	19,210	6	1310,442	33,921	68	68	15	7,724	17	49,908	1327,551	55,815
Oklahoma:																	
Arkansas.....	12,771	4,075	48	3,455	35	1,679	17	9,809	1,092	37	37	31	918	32	2,962	11,643	3,078
Oklahoma.....	23,865	15,584	77	2,651	13	1,888	9	20,123	3,662	64	64	26	1,503	10	5,742	23,526	6,082
Total.....	38,636	20,259	68	6,106	20	3,567	12	29,932	4,754	55	55	17	2,423	17	8,704	35,169	9,160
Omaha:																	
Iowa.....	28,724	16,088	77	1,555	8	3,163	15	20,836	5,782	73	73	20	1,538	7	7,888	31,592	12,927
Nebraska.....	24,533	15,469	76	2,075	10	2,692	13	20,236	2,719	63	63	22	939	15	4,297	21,423	4,881
Total.....	53,257	31,557	77	3,660	9	5,855	14	41,072	8,501	70	70	20	2,477	10	12,185	53,015	17,808
Philadelphia:																	
First Pennsylvania.....	90,703	62,231	78	9,618	12	7,866	10	79,715	6,550	60	60	40	4,406		10,988	79,846	11,496
Twelfth Pennsylvania.....	21,780	14,564	77	3,129	17	1,193	6	18,886	1,798	62	62	25	736	13	2,903	19,350	3,173
Total.....	112,492	76,795	78	12,747	13	9,059	9	98,601	8,348	60	60	37	5,142	3	13,891	99,196	14,669
Pittsburgh: Twenty-third																	
Pennsylvania.....	70,539	48,101	80	11,319	19	987	1	60,467	6,195	61	61	38	3,815	1	10,072	62,352	11,801
Richmond: Virginia.....	23,731	9,287	53	6,881	39	1,472	8	17,640	3,508	58	58	20	1,242	22	6,091	17,165	6,847
St. Louis:																	
First Missouri.....	30,096	25,579	83	2,542	8	2,762	9	30,883	5,832	71	71	19	1,539	10	8,213	30,813	9,963
Sixth Missouri.....	21,005	11,728	80	1,479	10	1,493	10	14,700	5,177	82	82	16	996	2	6,305	15,807	6,671
Total.....	60,101	37,307	82	4,021	9	4,255	9	45,583	11,009	76	76	17	2,535	7	14,518	46,620	16,634
St. Paul:																	
Minnesota.....	40,472	24,122	80	3,489	12	2,564	8	30,175	7,848	76	76	22	2,46	2	10,297	33,283	11,779
North Dakota.....	3,318	4,999	85	266	5	610	10	5,875	2,811	82	82	14	494	4	3,413	7,181	4,509
South Dakota.....	3,155	239	79	26	9	37	12	3,032	2,385	84	84	11	322	5	2,853	6,509	3,090
Total.....	52,945	29,360	81	3,781	10	3,211	9	36,352	13,044	79	79	18	3,062	3	16,538	49,846	19,378

<sup>1</sup> Figures for second and third New York and Florida include 1940-A returns.



Table showing appointments and separations in the Income Tax Unit

## WASHINGTON

Period	Number at beginning of period			Separations during period			Additions during period			Number at end of period		
	Technical	Clerical	Total	Technical	Clerical	Total	Technical	Clerical	Total	Technical	Clerical	Total
Oct. 1, 1919-June 30, 1920....	1,532	1,247	2,779	451	493	944	1,002	1,480	2,482	2,083	2,234	4,317
July 1, 1920-June 30, 1921....	2,083	2,234	4,317	517	962	1,479	973	1,565	2,538	2,539	2,837	5,376
July 1, 1921-June 30, 1922....	2,539	2,837	5,376	448	639	1,087	441	709	1,150	2,532	2,907	5,439
July 1, 1922-June 30, 1923....	2,532	2,907	5,439	377	594	971	471	453	924	2,626	2,766	5,392
July 1, 1923-June 30, 1924....	2,626	2,766	5,392	500	542	1,042	95	229	324	2,221	2,453	4,674
July 1, 1924-June 30, 1925....	2,221	2,453	4,674	312	737	1,049	133	500	633	2,042	2,216	4,258
July 1, 1925-June 30, 1926....	2,042	2,216	4,258	577	543	1,120	24	202	226	1,489	1,875	3,364
July 1, 1926-June 30, 1927....	1,489	1,875	3,364	297	587	884	6	135	141	1,198	1,423	2,621
Total.....				3,479	5,097	8,576	3,145	5,273	8,418			

## FIELD

July 1, 1920-June 30, 1921....	1,720	241	1,961							2,100	341	2,441
July 1, 1921-June 30, 1922....	2,100	341	2,441	331	124	455	718	210	928	2,487	427	2,914
July 1, 1922-June 30, 1923....	2,487	427	2,914	327	206	533	427	272	699	2,587	493	3,080
July 1, 1923-June 30, 1924....	2,587	493	3,080	406	179	585	64	165	229	2,245	479	2,724
July 1, 1924-June 30, 1925....	2,245	479	2,724	140	76	216	295	118	323	2,310	521	2,831
July 1, 1925-June 30, 1926....	2,310	521	2,831	310	94	404	442	184	626	2,442	611	3,053
July 1, 1926-June 30, 1927....	2,442	611	3,053	185	84	269	514	197	711	2,771	724	3,495
Total.....				1,699	763	2,462	2,370	1,146	3,516			

## TOTAL, WASHINGTON AND FIELD

Oct. 1, 1919-June 30, 1920 <sup>1</sup> ...	1,532	1,247	2,779	451	493	944	1,002	1,480	2,482	2,083	2,234	4,317
Sept. 30, 1920-June 30, 1921 <sup>2</sup> ...	3,803	2,475	6,278	517	962	1,479	973	1,565	2,538	4,639	3,178	7,817
July 1, 1921-June 30, 1922....	4,639	3,178	7,817	779	763	1,542	1,159	919	2,078	5,019	3,334	8,353
July 1, 1922-June 30, 1923....	5,019	3,334	8,353	704	800	1,504	898	725	1,623	5,213	3,259	8,472
July 1, 1923-June 30, 1924....	5,213	3,259	8,472	906	721	1,627	159	394	553	4,466	2,932	7,398
July 1, 1924-June 30, 1925....	4,466	2,932	7,398	452	813	1,265	338	618	956	4,352	2,737	7,089
July 1, 1925-June 30, 1926....	4,352	2,737	7,089	887	637	1,524	466	386	852	3,931	2,486	6,417
July 1, 1926-June 30, 1927....	3,931	2,486	6,417	482	671	1,153	520	332	852	3,969	2,147	6,116
Total.....				5,178	5,860	11,038	5,515	6,419	11,934			

<sup>1</sup> The figures shown for the period Oct. 1, 1919 to June 30, 1920, are for Washington only.<sup>2</sup> The separations and additions shown for the period Sept. 30, 1920, to June 30, 1921, are for Washington only, as it was impossible to secure the figures showing the additions and separations in the field during this period.

## Cases handled, 1923-1927

	On hand June 30—					On hand Oct. 7, 1927	Percentage remaining open Oct. 7, 1927
	1923	1924	1925	1926	1927		
1917.....	28,916	8,773	3,417	1,372	622	527	0.04
1918.....	84,323	19,361	6,002	1,877	861	738	.06
1919.....	103,198	61,327	12,155	2,628	1,184	1,069	.07
1920.....	458,205	166,484	90,746	7,121	2,081	1,667	.10
1921.....	1,190,902	353,781	171,221	8,192	2,020	1,836	.12
1922.....	1,167,000	719,702	380,045	141,084	5,136	3,806	.24
1923.....		1,100,624	372,200	154,329	35,316	22,037	1.71
1924.....			975,298	170,786	107,607	83,380	7.24
1925.....				255,402	289,275	225,482	25.65
1926.....				1,949	30,433	597,482	24.92
Total.....	3,032,544	2,430,055	2,011,084	742,740	474,535	938,024	6.47

*Total deficiency taxes assessed for the fiscal year ended June 30*

Tax year	1925			1926		
	Regular procedure	Jeopardy assessments	Total	Regular procedure	Jeopardy assessments	Total
1917.....	\$16,597,185.34	\$4,891,284.46	\$21,488,469.80	\$10,714,579.25	\$10,492,097.02	\$21,206,676.27
1918.....	33,626,879.85	17,600,318.54	51,227,198.39	57,223,713.11	24,335,611.71	81,559,324.82
1919.....	63,083,163.60	68,182,476.07	128,265,639.67	33,873,311.50	10,829,004.18	44,702,315.68
1920.....	43,452,401.81	30,075,069.46	73,527,471.27	62,766,862.40	55,892,940.08	118,659,802.48
1921.....	18,363,460.29	14,303,870.73	32,667,331.02	35,843,250.35	31,414,955.65	67,258,206.00
1922.....	4,608,638.69	8,830,898.04	13,439,536.73	11,459,842.26	4,000,753.59	15,460,595.85
1923.....	1,486,037.25	3,692,359.26	5,178,396.51	9,003,954.57	10,404,567.90	19,408,522.47
1924.....	-----	-----	-----	2,221,278.23	1,797,746.19	4,019,024.42
1925.....	-----	-----	-----	-----	-----	-----
1926.....	-----	-----	-----	-----	-----	-----
Total.....	181,217,766.83	144,576,276.56	325,794,043.39	223,106,791.67	149,167,676.32	372,274,467.99

Tax year	1927			Grand total		
	Regular procedure	Jeopardy assessments	Total	Regular procedure	Jeopardy assessments	Total
1917.....	\$7,290,159.53	\$166,770.33	\$7,456,929.86	\$34,601,924.12	\$15,550,151.81	\$50,152,075.93
1918.....	28,083,417.21	869,445.38	28,952,862.59	118,934,010.17	42,805,375.63	161,739,385.80
1919.....	30,729,004.88	6,049,378.37	36,778,383.25	127,685,479.98	82,060,858.62	209,746,338.60
1920.....	48,581,536.28	2,386,956.78	50,968,493.06	154,800,800.49	88,354,966.32	243,155,766.81
1921.....	31,145,048.99	2,137,526.95	33,282,575.94	85,351,759.63	47,856,353.33	133,208,112.96
1922.....	44,964,427.14	4,653,072.79	49,617,499.93	61,032,908.09	17,484,724.42	78,517,632.51
1923.....	31,620,796.93	7,093,960.24	38,714,757.17	42,110,788.75	21,190,887.40	63,301,676.15
1924.....	14,385,412.64	4,303,712.86	18,689,125.5	16,606,690.87	6,101,459.05	22,708,149.92
1925.....	6,236,329.50	3,998,335.11	10,234,664.61	6,236,329.50	3,998,335.11	10,234,664.61
1926.....	356,164.90	1,044,997.52	1,401,162.42	356,164.90	1,044,997.52	1,401,162.42
Total.....	243,392,298.00	32,704,156.33	276,096,454.33	647,716,856.50	326,448,109.21	974,164,965.71



Number of employees, aggregate and average salaries in the various classification grades of the several administrative units of the Internal Revenue Bureau, showing the bureau average for each grade in comparison with the average specified by the classification act of 1923, as of October 1, 1927

Classification grade	Income Tax Unit			Miscellaneous tax unit			Accounts and collections unit			General counsel			Commissioners and miscellaneous unit			Bureau totals			Act average
	Number of employees	Total salaries	Unit average	Number of employees	Total salaries	Unit average	Number of employees	Total salaries	Unit average	Number of employees	Total salaries	Unit average	Number of employees	Total salaries	Unit average	Number of employees	Aggregate salaries	Bureau average	
Clerical, accounting, and fiscal:	108	\$133,440	\$1,235	19	\$24,540	\$1,291	7	\$8,760	\$1,251	27	\$50,220	\$1,357	7	\$9,240	\$1,320	178	\$226,200	\$1,270	\$1,320
	699	1,017,950	1,462	68	103,980	1,529	27	41,080	1,521	43	61,140	1,412	26	38,220	1,470	863	1,292,580	1,497	1,500
	374	624,900	1,669	80	138,780	1,734	20	34,980	1,719	129	216,240	1,676	47	80,940	1,722	650	1,092,240	1,680	1,680
	181	324,240	1,791	48	92,760	1,931	29	56,040	1,932	27	51,540	1,908	18	31,840	1,851	313	576,360	1,841	1,860
	166	339,120	2,042	20	44,500	2,225	11	25,200	2,290	20	42,120	2,108	16	36,300	2,268	233	487,240	2,091	2,111
	171	402,400	2,353	20	49,200	2,460	6	14,600	2,433	2	5,300	2,650	2	20,500	2,562	207	492,000	2,376	2,400
	268	713,100	2,660	13	36,000	2,763	5	14,600	2,920	8	21,400	2,675	14	39,900	2,850	308	825,000	2,678	2,700
	64	190,400	2,975	5	14,900	2,980	1	3,000	3,000				6	17,300	2,883	76	225,600	2,968	3,000
	230	746,400	3,245	3	10,200	3,400	4	15,200	3,800	24	79,200	3,300	4	12,900	3,225	261	848,700	3,251	3,300
	61	214,700	3,519	3	11,000	3,666		5,000	5,000				2	7,800	3,900	70	248,700	3,552	3,600
	10	47,000	4,700	4	17,600	4,400		5,800	5,800	10	40,600	4,060	8	34,000	4,250	123	524,200	4,261	4,400
	11	427,000	5,333	1	5,600	5,600	1	5,800	5,800	3	17,600	5,866		5,200	5,200	9	50,200	5,377	5,600
	12	16,000	6,000	1	6,000	6,000	1	7,500	7,500				3	21,500	16,000	6	41,000	16,375	6,750
	13			1									1	10,000	10,000	1	10,000	10,000	
	14																		
Professional:	1	2,000	2,000	19	52,800	2,778				6	15,000	2,500				26	70,400	2,707	2,111
	2	12,000	3,000	15	49,500	3,300				29	94,900	3,272				48	156,400	3,258	2,700
	3	307,600	4,272	6	25,600	4,266				99	415,600	4,197	2	9,200	4,600	179	738,000	4,234	3,300
	4	37,000	5,285							31	169,200	5,458	6	33,400	5,566	44	239,600	5,445	4,400
	5									3	19,500	6,500	1	7,500	7,500	4	27,000	6,750	6,750
	6									1	10,000	10,000				1	10,000	10,000	
	7																		
Subprofessional:	1																		1,080
	2																		1,320
	3																		1,500
	4																		1,680
	5																		1,860
	6																		2,111
	7																		2,400
	8																		2,700

! Statutory salaries of the assistant to the commissioner and the special deputy commissioner not considered in determining averages.  
 \* Authorized average for grade exceeded.

*Number of employees, aggregate and average salaries in the various classification grades of the several administrative units of the Internal Revenue Bureau, showing the bureau average for each grade in comparison with the average specified by the classification act of 1923, as of October 1, 1927.—Continued*

Classification grade	Income Tax Unit			Miscellaneous tax unit			Accounts and collections unit			General counsel			Commissioner and miscellaneous unit			Bureau totals			Act average
	Num-ber of em-ploy-ees	Total salaries	Unit aver-age	Num-ber of em-ploy-ees	Total salaries	Unit aver-age	Num-ber of em-ploy-ees	Total salaries	Unit aver-age	Num-ber of em-ploy-ees	Total salaries	Unit aver-age	Num-ber of em-ploy-ees	Total salaries	Unit aver-age	Num-ber of em-ploy-ees	Aggre-gate salaries	Bureau aver-age	
Custodial:																			
1-----	1	900	900										9	9,180	1,020	10	10,080	1,008	690
2-----	12	58,740	1,129	8	9,540	1,192	3	3,720	1,240	19	21,660	1,140	33	37,620	1,140	115	131,280	1,141	1,020
3-----	1	1,440	1,440	3	3,720	1,240	1	1,380	1,380	1	1,440	1,440	3	3,960	1,320	9	11,940	1,326	1,140
4-----																			1,320
6-----																			1,320
7-----																			1,680
													1	1,860	1,860	1	1,860	1,860	1,680
													1	1,860	1,860	1	1,860	1,860	1,800
	2,564	5,602,940	2,185	336	696,160	2,071	117	236,260	2,019	492	1,332,660	2,708	232	498,740	2,149	3,741	8,366,760	2,236	-----

\* Authorized average for grade exceeded.

*Recapitulation tax returns filed for the fiscal year July 1, 1926, to June 30, 1927*

Districts	Special tax	Sales tax	Income tax	Miscellaneous	Total
Alabama.....	1,831	555	36,204	1,080	39,670
Arizona.....	863	336	13,316	118	14,633
Arkansas.....	4,721	524	26,430	6,558	38,233
First California.....	10,052	3,830	194,975	10,807	219,664
Sixth California.....	13,233	4,770	198,089	4,570	215,662
Colorado.....	5,138	1,364	46,130	3,844	56,476
Connecticut.....	4,204	2,481	96,275	5,207	108,167
Delaware.....	997	380	12,170	347	13,894
Florida.....	5,429	937	75,148	5,388	86,902
Georgia.....	5,980	717	47,909	1,635	56,241
Hawaii.....	322	337	10,413	544	11,616
Idaho.....	1,387	506	16,486	1,040	19,419
First Illinois.....	22,690	5,369	431,854	7,358	467,271
Eighth Illinois.....	9,896	2,838	57,794	1,729	72,257
Indiana.....	16,380	2,318	95,213	1,376	115,287
Iowa.....	12,475	4,202	71,387	1,017	89,081
Kansas.....	9,270	1,332	46,392	1,220	58,214
Kentucky.....	6,588	1,024	44,585	34,437	86,634
Louisiana.....	5,618	1,050	50,596	2,933	60,197
Maine.....	3,056	693	25,975	682	30,406
Maryland.....	9,997	3,194	133,143	3,644	149,978
Massachusetts.....	14,165	6,252	269,332	10,296	300,045
Michigan.....	16,669	3,261	214,340	12,302	246,572
Minnesota.....	9,865	2,352	86,764	5,746	104,727
Mississippi.....	2,660	425	22,468	639	26,192
First Missouri.....	6,759	1,237	82,944	8,360	99,300
Sixth Missouri.....	7,977	1,419	44,358	5,141	58,895
Montana.....	1,189	1,630	22,914	4,055	29,188
Nebraska.....	6,756	1,488	43,593	553	52,390
Nevada.....	263	166	6,341	11	6,781
New Hampshire.....	1,632	542	18,386	447	21,007
First New Jersey.....	2,915	1,080	46,076	1,462	51,533
Fifth New Jersey.....	8,541	2,810	166,568	8,375	186,294
New Mexico.....	608	210	8,442	162	9,422
First New York.....	6,449	2,472	208,772	1,800	219,493
Second New York.....	1,888	1,403	295,221	13,228	311,740
Third New York.....	5,934	4,203	176,486	6,550	193,173
Fourteenth New York.....	9,685	3,045	122,515	2,207	137,452
Twenty-first New York.....	7,146	2,564	56,767	2,878	69,355
Twenty-eighth New York.....	5,991	3,481	110,677	2,909	123,058
North Carolina.....	4,098	751	46,706	8,183	59,738
North Dakota.....	1,442	657	16,000	539	18,638
First Ohio.....	7,420	1,693	67,813	3,424	80,350
Tenth Ohio.....	5,181	2,617	39,986	1,014	48,798
Eleventh Ohio.....	6,642	677	33,764	568	41,651
Eighteenth Ohio.....	11,996	2,100	140,193	7,696	161,985
Oklahoma.....	5,295	1,517	51,323	645	58,780
Oregon.....	5,245	2,443	42,607	682	50,977
First Pennsylvania.....	13,955	4,442	222,457	11,723	252,577
Twelfth Pennsylvania.....	3,438	1,285	58,531	5,348	68,602
Twenty-third Pennsylvania.....	9,124	3,053	202,644	28,152	242,973
Rhode Island.....	1,912	802	36,147	2,636	41,497
South Carolina.....	2,896	421	20,597	2,131	26,045
South Dakota.....	2,422	523	17,952	1,596	22,793
Tennessee.....	7,116	912	44,393	2,217	54,638
First Texas.....	6,429	2,192	78,418	5,220	92,259
Second Texas.....	9,002	1,711	65,442	2,378	78,533
Utah.....	1,634	433	18,275	877	21,219
Vermont.....	1,454	635	11,729	299	14,117
Virginia.....	5,076	954	52,628	5,022	63,680
Washington.....	6,705	3,281	87,492	11,550	109,028
West Virginia.....	5,751	544	42,255	1,400	49,950
Wisconsin.....	6,757	3,293	124,365	6,348	140,763
Wyoming.....	794	888	11,793	125	13,600
	399,003	116,321	5,261,958	292,428	6,069,710

Statement showing progress made on audit of 1040 returns for the tax year 1926 by collectors of internal revenue as of September 30, 1927

Districts	Number of 1040's received from bureau	Number of 1040's received from agents	Total 1040's to be audited	Number returned to bureau on account of replies to 30-day letters	Number sent to agent on account of pro- tests, etc.	Reductions in tax liability recommended	Number of deficiencies assessed	Total number returns completed	Number uncompleted returns	Total increase in tax liability	Total reduction in tax liability	Net increase in tax liability	Total cost of work to date
Alabama.....	4, 022	78	4, 100	574	1	137	32	55	799	\$4, 523.61	\$1, 346.97	\$3, 176.64	\$734.30
Arizona.....	5, 026	0	5, 131	922	3	27	8	79	1, 039	4, 288.88	232.76	4, 056.12	1, 263.05
Arkansas.....	4, 946	105	5, 131	922	3	27	8	79	1, 039	4, 288.88	232.76	4, 056.12	1, 004.86
California.....	3, 164	0	3, 171	72	1	366	1	18	457	325.54	88.27	237.27	509.00
Connecticut.....	1, 811	1	1, 812	1, 897	20	126	4	2	129	93.61	313.25	93.61	52.00
Delaware.....	9, 221	132	9, 353	550	1	82	4	100	2, 103	7, 240.53	39.14	6, 927.28	1, 036.20
Florida.....	1, 292	4	1, 296	407	1	132	2	20	740	2, 267.00	66.38	2, 200.62	3, 323.00
Idaho.....	9, 280	42	9, 322	407	1	132	2	20	740	2, 267.00	66.38	2, 200.62	3, 323.00
Illinois.....	4, 671	16	4, 687	343	9	101	4	14	228	854.09	181.07	673.02	3, 867.93
Indiana.....	4, 293	47	4, 340	995	8	294	19	128	1, 445	3, 786.11	99.57	3, 686.54	404.99
Iowa.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Kansas.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Kentucky.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Louisiana.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Maine.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Maryland.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Massachusetts.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Michigan.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Minnesota.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Mississippi.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Missouri.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Montana.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Nebraska.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Nevada.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
New Hampshire.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
New Jersey.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
New Mexico.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
New York.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
North Carolina.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
North Dakota.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Ohio.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Oklahoma.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Oregon.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Pennsylvania.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
Rhode Island.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04
South Carolina.....	2, 044	45	2, 089	306	1	94	1	11	1, 556	1, 619.31	815.72	2, 970.39	863.04

South Dakota-----	75	0	75	45	-----	-----	-----	2	47	28	10.46	-----	10.46	4.55
First Texas-----	11,586	0	11,586	1,433	-----	325	-----	-----	1,758	9,828	-----	-----	-----	1,798.56
Vermont-----	554	0	554	15	-----	20	-----	-----	35	519	-----	-----	-----	9.67
Washington-----	6,905	90	6,995	383	-----	139	-----	31	583	6,442	282.09	-----	282.09	1,458.39
Wisconsin-----	6,330	0	6,330	1,323	-----	10	22	33	1,388	5,142	330.60	-----	330.60	713.40
Wyoming-----	914	39	953	234	-----	14	2	16	267	686	236.09	-----	236.09	751.31
Total-----	168,342	1,148	169,490	32,207	95	7,582	216	1,413	41,513	127,977	103,438.28	13,490.38	89,947.90	39,230.68

## STATISTICAL STUDY OF CASES BEFORE THE BOARD OF TAX APPEALS

The following tabulations present a statistical study of the cases in which petitions have been filed with the United States Board of Tax Appeals. The data have been taken from the card record maintained in the appeals division of the office of the general counsel:

Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, 28,211 cases distributed by groups according to docket number, and showing for each distribution the total number of cases, the number pending, and the number closed, also per cent open and per cent closed.

Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, 28,211 cases distributed by groups according to docket number, and showing for each distribution the total number of cases, the number pending, and the number closed, also per cent open and per cent closed, as well as the date upon which the last petition on each group was filed.

Cases pending before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, showing for the cases still pending of the first 5,000 docketed, the docket number, and amount involved.

Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, showing the years involved and the number of times each year appears for pending and for closed cases, also per cent pending and per cent closed.

Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, 27,657 cases classified by size of tax involved and showing for each class the total number of cases filed, the number pending and the number closed, also the percentage of pending cases and closed cases to the total number filed, likewise the total amount of tax, the amount of tax on pending cases and the amount on closed cases, also the percentage of tax on pending cases and the percentage on closed cases to total tax.

Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, classified by size of tax involved and showing for each class the number of cases, and total tax.

Cases pending in the appeals division, office of general counsel, Bureau of Internal Revenue, showing, by revenue acts, the sections which appear ten or more times.

To the last schedule are attached digests of all sections of the several laws which the records of the appeals division show to have been cited ten or more times in petitions filed.

*Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, Office of General Counsel, Bureau of Internal Revenue; 28,211 cases distributed by groups according to docket number and showing for each distribution the total number of cases, the number pending, and the number closed, also per cent open and per cent closed, as well as the date upon which the last petition on each group was filed*

## CASES DISTRIBUTED ACCORDING TO DOCKET NUMBER

Docket number	Date upon which last petition in each distribution was filed	Total	Pending	Closed	Per cent pending	Per cent closed
1 to 100.....	Sept. 2, 1924		7			
101 to 200.....	Sept. 16, 1924		9			
201 to 300.....	Oct. 2, 1924		8			
301 to 400.....	Oct. 17, 1924		13			
401 to 500.....	Oct. 31, 1924		17			
501 to 600.....	Nov. 10, 1924		20			
601 to 700.....	Nov. 17, 1924		15			
701 to 800.....	Nov. 25, 1924		10			
801 to 900.....	Dec. 2, 1924		19			
901 to 1,000.....	Dec. 9, 1924		12			
Total 1 to 1,000.....	Dec. 9, 1924	952	130	822	13.65	86.35
1,001 to 2,000.....	Feb. 12, 1925	936	174	762	18.59	81.41
2,001 to 3,000.....	Apr. 2, 1925	948	217	731	22.89	77.11
3,001 to 4,000.....	May 7, 1925	928	254	674	27.37	72.63
4,001 to 5,000.....	June 19, 1925	863	240	623	27.81	72.19
5,001 to 10,000.....	Dec. 16, 1925	4,329	2,235	2,094	51.63	48.37
10,001 to 15,000.....	Apr. 26, 1926	4,831	3,419	1,412	70.77	29.23
15,001 to 20,000.....	Sept. 16, 1926	4,956	3,640	1,316	73.44	26.56
20,001 to 25,000.....	Mar. 8, 1927	4,999	4,622	377	92.46	7.54
25,001 to 29,425.....	June 30, 1927	4,469	4,387	82	98.16	1.84
Total.....		28,211	19,318	8,893	68.48	31.52

*Cases pending before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of General Counsel, Bureau of Internal Revenue, showing for the cases still pending of the first 5,000 docketed, the docket number, and amount involved*

Docket No.	Amount	Docket No.	Amount
5.....	\$27,438	351.....	\$436,566
16.....	42,656	366.....	4,647
29.....	2,890	370.....	3,396
40.....	36,399	374.....	13,245
46.....	10,423	378.....	1,122
74.....	707,759	389.....	3,900
80.....	63,041	398.....	949
113.....	2,016	400.....	55,597
118.....	3,108	402.....	5,735
127.....	200,436	415.....	262
128.....	6,070	416.....	61
132.....	1,410	418.....	19,718
133.....	3,917	426.....	1,748
159.....	19,024	431.....	35,561
181.....	4,303	439.....	399
197.....	68	440.....	352
205.....	4,617	443.....	25,438
206.....	213	457.....	13,777
215.....	344,191	462.....	4,344
228.....	10,123	465.....	113,650
234.....	71,204	470.....	117,167
251.....	1,710	492.....	8,761
279.....	22,643	496.....	4,758
280.....	4,260	497.....	3,786
303.....	170,591	505.....	10,000
306.....	(1)	508.....	7,115
321.....	31,235	509.....	135
326.....	7,523	515.....	36,664
332.....	3,185	518.....	8,767
345.....	4,414	521.....	7,029

*Cases pending before the United States Board of Tax Appeals, etc.—Contd.*

Docket No.	Amount	Docket No.	Amount
532.....	\$40,773	1083.....	\$8,279
541.....	22,546	1105.....	90,254
543.....	727	1109.....	14,425
553.....	10,000	1116.....	4,766
558.....	2,433	1117.....	39,617
563.....	602	1122.....	190,379
588.....	33,362	1123.....	27,738
591.....	20,269	1130.....	2,886
598.....	12,053	1131.....	7,910
601.....	2,818	1133.....	91,468
602.....	2,052	1135.....	140
606.....	65,644	1146.....	8,849
644.....	3,780	1154.....	2,770
645.....	3,141	1189.....	1,974
651.....	77	1190.....	680
654.....	2,142	1208.....	1,938
660.....	643	1210.....	107,773
665.....	10,080	1218.....	1,073
666.....	6,244	1219.....	64,554
668.....	46,185	1227.....	1,570
675.....	3,295	1231.....	15,873
685.....	575	1243.....	9,999
687.....	1,534	1248.....	62
693.....	141,294	1251.....	10,192
719.....	7,413	1256.....	4,207
730.....	15,123	1258.....	23,196
743.....	1,150	1261.....	( <sup>1</sup> )
752.....	1,918	1300.....	70
753.....	3,316	1305.....	13
769.....	268	1308.....	236
770.....	2,972	1310.....	6,855
789.....	2,646	1323.....	28,266
791.....	212,105	1330.....	6,699
794.....	5,817	1337.....	11,322
801.....	3,422	1339.....	365
803.....	5,759	1340.....	654
809.....	6,356	1341.....	5,237
810.....	10,432	1346.....	1,823
814.....	2,930	1351.....	153,245
819.....	1,914	1354.....	125,315
820.....	8,270	1356.....	6,227
827.....	43,386	1357.....	67,664
828.....	2,789	1362.....	10,000
838.....	71,951	1364.....	31
840.....	9,111	1369.....	1,487
851.....	4,835	1372.....	3,071
853.....	29	1374.....	83,061
862.....	( <sup>1</sup> )	1377.....	1,895
874.....	9,500	1381.....	15,684
876.....	41,513	1386.....	1,166
877.....	2,406	1387.....	5,669
878.....	4,533	1400.....	67
879.....	26,287	1402.....	906
913.....	1,026	1408.....	24,991
915.....	2,195	1412.....	2,858
926.....	2,010	1415.....	1,548
929.....	3,551	1419.....	4,159
930.....	1,791	1420.....	545
942.....	270,089	1427.....	206
945.....	31	1433.....	514
960.....	72,733	1438.....	1,333
971.....	2,899	1439.....	18,560
972.....	4,473	1442.....	15,227
981.....	620	1445.....	95,543
995.....	1,914	1453.....	1,135
1004.....	2,469	1460.....	5,855
1006.....	310	1461.....	1,399
1007.....	5,126	1465.....	1,666
1014.....	66	1479.....	( <sup>1</sup> )
1015.....	3,707	1483.....	681
1026.....	6,406	1485.....	2,702
1029.....	29,059	1499.....	59,316
1033.....	10,000	1511.....	246,487
1037.....	319,746	1514.....	4,805
1040.....	5,230	1532.....	726
1042.....	7,179	1537.....	80,665
1050.....	1,614	1546.....	53,922
1052.....	2,960	1566.....	3,127
1054.....	10,000	1579.....	1,737
1055.....	39,388	1580.....	8,385
1064.....	1,740	1593.....	11,265
1072.....	38,742	1598.....	7,241
1078.....	2,689	1601.....	8,136

<sup>1</sup> No amount shown.



*Cases pending before the United States Board of Tax Appeals, etc.—Contd.*

Docket No.	Amount	Docket No.	Amount
1602.....	\$7	2056.....	\$29,653
1609.....	207	2066.....	5,820
1614.....	118	2076.....	1,471
1619.....	1,160	2077.....	21,762
1624.....	1,722	2084.....	424
1629.....	150	2088.....	541
1635.....	479	2089.....	2,397
1638.....	4,284	2095.....	505
1644.....	9,326	2107.....	13,190
1645.....	145	2109.....	36,648
1660.....	39,305	2111.....	1,045
1664.....	1,084	2113.....	35
1676.....	19,408	2114.....	35
1697.....	5,755	2117.....	751
1698.....	24	2120.....	(1)
1706.....	702	2125.....	39,617
1720.....	1,557	2126.....	117,637
1739.....	480	2141.....	7,040
1742.....	934	2142.....	8,204
1743.....	2,269	2144.....	340
1744.....	7,068	2151.....	713
1745.....	2,211	2153.....	15,192
1747.....	31	2156.....	665
1749.....	1,068	2168.....	200
1751.....	3,126	2171.....	1,131
1754.....	20,976	2173.....	9,047
1755.....	16,521	2176.....	293
1762.....	51,662	2178.....	8,506
1764.....	4,545	2182.....	3,085
1775.....	3,291	2184.....	411
1782.....	1,106	2186.....	198,683
1785.....	237	2187.....	181,619
1797.....	146	2190.....	7
1800.....	1,469	2191.....	940
1809.....	462	2199.....	151,378
1813.....	2,637	2200.....	345
1822.....	48,131	2202.....	385,256
1823.....	1,313	2203.....	1,131
1828.....	5,202	2207.....	33,470
1833.....	114	2208.....	13,332
1845.....	12,407	2214.....	98,345
1848.....	1,213	2215.....	245
1849.....	97	2217.....	5,615
1854.....	2,574	2218.....	5,595
1862.....	1,655	2224.....	808
1872.....	28,959	2227.....	16,816
1880.....	1,577	2231.....	43,987
1885.....	2,755	2232.....	59
1886.....	9,449	2240.....	1,237
1887.....	38,738	2243.....	1,165
1895.....	82,389	2244.....	46,378
1909.....	1,305	2246.....	1,276
1911.....	350	2258.....	1,747
1912.....	10,431	2259.....	25
1920.....	21,293	2260.....	755
1926.....	1,548	2261.....	749
1927.....	283,647	2262.....	496
1937.....	23,294	2263.....	277
1941.....	19,992	2264.....	116
1944.....	45,857	2265.....	65
1945.....	35,600	2266.....	1,136
1946.....	3,842	2267.....	668
1947.....	6,488	2279.....	2,382
1948.....	6,630	2284.....	19,963
1949.....	1,248	2286.....	2,208
1952.....	28,707	2287.....	3,467
1960.....	921	2290.....	2,198
1978.....	21,863	2299.....	8,742
1983.....	5,570	2313.....	5,197
1990.....	25,722	2316.....	138
2001.....	1,640	2318.....	1,263
2021.....	826	2321.....	3,808
2024.....	565	2334.....	2,368
2025.....	76,019	2335.....	666
2026.....	1,168	2338.....	237
2034.....	309	2341.....	351,334
2038.....	6,861	2346.....	9,021
2040.....	14,589	2349.....	211
2044.....	537	2350.....	24
2048.....	2,400	2365.....	296
2050.....	51,757	2367.....	326
2055.....	377	2373.....	242

*Cases pending before the United States Board of Tax Appeals, etc.—Contd.*

Docket No.	Amount	Docket No.	Amount
2374	\$1,562	2828	\$466,224
2376	506	2830	3,259
2380	18,788	2831	14,991
2390	10,030	2837	1,794
2394	8,957	2838	3,090
2398	4,004	2841	578,487
2399	(1)	2851	7,602
2407	4,481	2853	8,567
2409	2,532	2862	16,034
2415	8,095	2863	3,285
2428	2,419	2870	482
2432	2,034	2871	588
2436	629	2872	597
2445	7,611	2875	6,637
2448	3,414	2880	3,483
2450	25,314	2881	1,181
2459	1,260	2882	1,607
2460	2,108	2904	206
2464	2,300	2906	30,031
2467	350	2908	9,432
2469	2,145	2914	7,380
2473	5,595	2915	14,995
4275	1,415	2924	2,861
2479	5,321	2928	3,462
2481	1,300	2929	3,463
2485	20	2932	10,893
2496	21,743	2936	712
2500	(1)	2945	1,562
2501	978	2950	324
2505	74,122	2955	66
2509	353,025	2962	31
2510	62,214	2970	4,103
2523	24,625	2976	640
2528	597	2984	12,848
2545	25,229	2989	43,420
2548	261,574	2999	45,678
2550	3,691	3006	3,476
2551	304	3007	3,696
2552	3,165	3011	224
2572	408	3013	148
2581	55	3014	1,983
2586	835	3025	7,835
2590	470	3026	4,679
2594	243	3037	16,030
2600	715	3046	2,180
2604	5,086	3050	361
2614	(1)	3051	506
2628	2,416	3052	407
2629	35,214	3053	202
2635	23,865	3062	6,736
2637	35,727	3068	137,817
2646	605	3072	4,689
2647	1,380	3076	113,323
2654	4,468	3077	361,479
2674	126	3078	76,020
2715	9,472	3079	80,038
2717	23,317	3080	69,931
2720	1,782	3081	157,607
2732	88	3082	586,321
2734	581	3083	175,735
2737	859	3089	1,153
2739	41,658	3091	1,720
2749	1,170	3092	7,820
2768	6,136	3093	542
2773	36,708	3094	273
2775	551	3098	4,432
2781	4,314	3110	9,778
2782	(1)	3114	102,441
2786	3,547	3121	794
2788	513,065	3127	270,712
2789	678,840	3132	772
2795	137,181	3135	2,529
2796	20,075	3136	1,287
2802	3,817	3137	632
2803	4,985	3139	704
2809	73	3144	1,108
2813	11,394	3147	3,222
2816	44,121	3152	8,784
2817	70,761	3155	4,117
2818	4,700	3163	5,150
2823	3,256	3164	167,965
2825	136	3166	3,440

<sup>1</sup> No amount shown.

*Cases pending before the United States Board of Tax Appeals, etc.—Cont'd.*

Docket No.	Amount	Docket No.	Amount
3167	\$40,128	3525	\$2,392
3170	111,091	3527	11,522
3177	1,831	3534	9,239
3182	1,473	3537	65,753
3186	11,000	3538	18,252
3195	802	3539	1,148
3199	112,769	3541	8,931
3213	3,515	3544	5,435
3221	321	3548	11,381
3227	1,349	3549	22,589
3230	12,683	3555	2,955
3237	252	3556	3,600
3242	20,610	3557	68,937
3244	74,965	3559	15,476
3245	795	3562	59
3249	6,054	3593	2,153
3256	835	3600	49,853
3258	496	3601	40,252
3259	42	3607	3
3260	7,134	3611	135
3262	206	3614	4,352
3263	569	3617	104,517
3264	214	3618	539
3269	38,765	3621	1,653
3274	4,545	3624	2,972
3275	985	3625	2,202
3276	66	3629	10,660
3293	23,147	3630	10,816
3296	31,575	3631	29
3297	305	3642	7,013
3310	34,153	3651	142,583
3316	5,663	3652	5,825
3317	13,190	3653	94,589
3319	55,936	3662	26,558
3324	488	3671	482
3329	1,961	3678	88,465
3333	27,103	3682	8,571
3334	18,996	3683	5,619
3336	119,520	3687	9,726
3341	23,353	3691	1,344
3344	2,837	3698	173,928
3350	2,579	3703	15,667
3352	11,341	3706	40,881
3354	1,928	3707	1,997
3358	23,554	3708	76,697
3364	20,521	3709	31,110
3367	974	3710	76,187
3368	3,076	3712	7,651
3369	246	3713	39,021
3370	7,403	3717	900
3372	151,658	3723	2,274
3377	(1)	3724	1,266
3382	6,019	3727	9,279
3397	3,595	3731	168
3398	25,754	3732	417
3411	9,366	3736	662
3424	5,246	3737	9,238
3425	27,641	3740	5,774
3430	51,688	3741	31
3431	40,408	3761	6,426
3435	652	3771	632
3436	31,689	3777	15,770
3439	13,607	3782	24,008
3444	611,444	3783	2,900
3445	16,524	3785	1,025
3453	32,029	3789	10,588
3456	1,146	3793	10,000
3462	43,660	3794	690
3465	684	3795	110
3482	1,347	3799	27,463
3485	640	3804	3,860
3486	2,778	3808	1,815
3497	39,298	3816	2,537
3501	36,612	3837	7,403
3508	24,277	3838	59,077
3509	24,277	3839	56,132
3512	39,134	3840	25,379
3513	5,768	3845	40,829
3514	19,619	3846	204,400
3515	33,759	3852	2,654
3516	32,746	3853	2,627
3517	35,086	3855	9,140

<sup>1</sup>No amount shown.

*Cases pending before the United States Board of Tax Appeals, etc.—Contd.*

Docket No.	Amount	Docket No.	Amount
3858.....	\$130,192	4216.....	\$1,559
3861.....	4,886	4219.....	291
3864.....	2,304	4220.....	306
3865.....	2,603	4222.....	24,832
3874.....	10,385	4225.....	79,000
3875.....	90,284	4227.....	9,548
3877.....	1,592	4228.....	11,066
3885.....	(1)	4229.....	20,609
3886.....	3,388	4230.....	22,394
3890.....	3,628	4235.....	130,169
3891.....	134	4236.....	1,078
3894.....	674	4238.....	125,026
3896.....	176,158	4239.....	929
3897.....	120,202	4241.....	135,318
3899.....	10,046	4257.....	2,611
3903.....	81,515	4265.....	827,515
3905.....	888	4267.....	476
3914.....	524	4270.....	33,602
3916.....	657	4272.....	27,297
3917.....	27,852	4273.....	12,045
3918.....	13,507	4279.....	362
3926.....	2,082	4284.....	291
3927.....	7,623	4287.....	52
3932.....	7,238	4289.....	46,084
3933.....	11,828	4297.....	6,448
3947.....	23	4299.....	415,081
3950.....	1,044	4300.....	7,867
3954.....	4,170	4302.....	1,322
3957.....	1,099	4303.....	16,526
3962.....	13,664	4309.....	(1)
3964.....	123,763	4316.....	9,675
3966.....	107	4319.....	8,828
3969.....	4,288	4333.....	174
3970.....	657,076	4334.....	41,600
3979.....	2,033	4341.....	237
3993.....	4,359	4342.....	5,192
3995.....	2,748	4343.....	9,434
3998.....	18,501	4355.....	906
3999.....	21,357	4360.....	128,720
4001.....	22,564	4362.....	911
4004.....	2,518	4372.....	3,623
4055.....	2,024	4378.....	7,761
4007.....	4,730	4380.....	132
4010.....	250	4384.....	1,915
4023.....	4,759	4391.....	5,326
4037.....	39,574	4396.....	1,442
4041.....	1,449	4397.....	13,000
4042.....	197	4398.....	39,620
4044.....	13,685	4401.....	988
4051.....	122,904	4409.....	86
4053.....	15,291	4414.....	1,155
4054.....	16,620	4416.....	793
4055.....	28,658	4427.....	61
4056.....	45,720	4430.....	19,227
4057.....	57,665	4434.....	10,761
4058.....	103,069	4437.....	6,093
4059.....	35,090	4439.....	6,189
4060.....	39,297	4440.....	13,155
4061.....	94,270	4447.....	6,139
4069.....	52,019	4449.....	74,376
4074.....	6,371	4454.....	26
4086.....	5,759	4474.....	7,727
4120.....	186,038	4475.....	5,516
4123.....	799	4477.....	2,366
4126.....	4,371	4478.....	5,377
4133.....	1,812	4485.....	2,693
4134.....	8,652	4487.....	35,237
4135.....	2,487	4492.....	55
4139.....	1,767	4499.....	3,570
4146.....	3,152	4502.....	12,253
4149.....	9,237	4505.....	8,746
4160.....	963	4509.....	2,297
4163.....	4,732	4510.....	27,651
4165.....	134,383	4523.....	2,553
4170.....	836	4524.....	10,997
4176.....	2,352	4527.....	7,001
4193.....	10,823	4540.....	276
4195.....	71,348	4550.....	6,217
4207.....	886	4552.....	1,414
4208.....	729	4553.....	48,406
4214.....	3,183	4554.....	9,584

1 No amount shown.

*Cases pending before the United States Board of Tax Appeals, etc.—Contd.*

Docket No.	Amount	Docket No.	Amount
4555	\$6,967	4721	\$198
4558	18,820	4725	13,836
4559	23,176	4739	1,689
4568	2,169	4753	141,533
4570	1,516	4764	479
4571	1,226	4776	15,809
4574	4,526	4781	42
4575	85,534	4783	47,874
4581	70,934	4784	17,810
4582	16,305	4788	15,336
4584	7,515	4797	220
4586	14,873	4798	248
4602	76	4800	3,803
4611	1,833	4802	10,521
4612	3,386	4803	810
4614	3,668	4806	20,134
4615	4,047	4812	156
4620	6,962	4816	59,690
4621	14,430	4820	2,710
4623	2,592	4821	168,538
4624	2,582	4829	158
4626	120	4848	159
4628	12,496	4852	51,519
4629	223	4853	19,277
4633	97,135	4863	387
4634	1,080	4864	511
4635	552	4870	4,664
4636	14,699	4872	14,570
4639	1,045	4884	5,383
4640	5,004,398	4885	880
4641	5,004,398	4886	1,597
4642	2,659	4895	136,167
4644	80,772	4899	11,708
4645	1,553	4907	521
4648	55,213	4908	4,824
4649	3,014	4916	617
4651	3,490	4917	28,407
4652	4,867	4918	76,175
4657	55,627	4921	40,904
4666	1,510	4922	3,273
4669	5,459	4924	23
4675	1,000	4927	8,149
4681	6,319	4928	72
4691	79,408	4934	28,428
4692	9,968	4935	3,113
4701	5,636	4938	183
4703	8,208	4943	6,489
4706	19,122	4951	73,239
4710	3,242	4958	120
4711	12,950	4968	60,979
4712	462,444	4969	24,073
4716	551	4973	71,600
4717	887	4976	1,244
4718	1,504	4981	156
4720	1,017,302	4999	89

*Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue, showing the years involved and the number of times each year appears for pending and for closed cases, also per cent pending and per cent closed*

## NUMBER OF TIMES EACH YEAR APPEARS FOR 1916 TO 1927, INCLUSIVE

Year	Total	Pending	Closed	Per cent pending	Per cent closed
1916.....	214	172	42	80.37	19.63
1917.....	1,616	1,201	415		
1918.....	4,500	3,303	1,197		
1919.....	6,989	4,424	2,565		
1920.....	10,726	7,283	3,443		
1921.....	8,673	5,851	2,822		
Total years 1917-1921.....	32,504	22,062	10,442	67.87	32.13
1922.....	6,103	5,099	1,004		
1923.....	3,834	2,992	842		
1924.....	1,519	1,133	386		
Total years 1922-1924.....	11,456	9,224	2,232	80.52	19.48
1925.....	323	300	23		
1926.....	9	9			
1927.....	5	5			
Total years 1925-1927.....	337	314	23	93.18	6.82
Total.....	44,511	31,772	12,739	71.38	28.62

## NUMBER OF TIMES EACH YEAR APPEARS FOR 1909 TO 1915, INCLUSIVE

1909.....	23	15	8		
1910.....	29	19	10		
1911.....	37	26	11		
1912.....	42	28	14		
1913.....	62	40	22		
1914.....	69	47	22		
1915.....	82	57	25		
Total.....	344	232	112	67.44	32.56

*Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, office of general counsel, Bureau of Internal Revenue; 27,657 cases classified by size of tax involved and showing for each class the total number of cases filed, the number pending, and the number closed, also the percentage of pending cases and closed cases to the total number filed, likewise the total amount of tax, the amount of tax on pending cases, and the amount on closed cases, also the percentage of the tax on pending cases and the percentage on closed cases to total tax*

## NUMBER OF CASES

Size of tax involved	Total	Pending	Closed	Per cent pending	Per cent closed
Less than \$100.....	1,148	458	690	39.90	60.10
\$100 to \$500.....	3,959	2,469	1,490	62.36	37.64
\$500 to \$1,000.....	2,956	1,868	1,088	63.19	36.81
Total less than \$1,000.....	8,063	4,795	3,268	59.47	40.53
\$1,000 to \$10,000.....	12,021	8,235	3,786	68.51	31.49
\$10,000 to \$50,000.....	5,394	4,129	1,265	76.55	23.45
\$50,000 to \$100,000.....	1,099	887	212	80.70	19.30
Total \$1,000 to \$100,000.....	18,514	13,251	5,263	71.57	28.43

## NUMBER OF CASES—Continued

Size of tax involved	Total	Pending	Closed	Per cent pending	Per cent closed
\$100,000 to \$200,000.....	585	504	81	86.15	13.85
\$200,000 to \$300,000.....	222	192	30	86.49	13.51
\$300,000 to \$400,000.....	101	94	7	93.07	6.93
\$400,000 to \$500,000.....	42	34	8	80.95	19.05
Total \$100,000 to \$500,000.....	950	824	126	86.74	13.26
\$500,000 to \$600,000.....	30	25	5	83.33	16.67
\$600,000 to \$700,000.....	20	17	3	85.00	15.00
\$700,000 to \$800,000.....	10	8	2	80.00	20.00
\$800,000 to \$900,000.....	7	7	-----	100.00	-----
\$900,000 to \$1,000,000.....	6	6	-----	100.00	-----
Total \$500,000 to \$1,000,000.....	73	63	10	86.30	13.70
\$1,000,000 and over.....	57	51	6	89.47	10.53
Total.....	1 27, 657	1 18, 984	8, 673	68.64	31.36

† Includes 1,000 pending Indian cases involving tax amounting to \$459,610.

## TAX INVOLVED

Less than \$100.....	\$66, 571	\$34, 121	\$32, 450	51.25	48.75
\$100 to \$500.....	1, 124, 982	717, 815	407, 167	63.81	36.19
\$500 to \$1,000.....	2, 194, 430	1, 402, 333	792, 097	63.90	36.10
Total less than \$1,000.....	3, 385, 983	2, 154, 269	1, 231, 714	63.62	36.38
\$1,000 to \$10,000.....	46, 620, 026	32, 835, 519	13, 784, 507	70.43	29.57
\$10,000 to \$50,000.....	140, 498, 523	114, 100, 953	26, 397, 570	81.21	18.79
\$50,000 to \$100,000.....	76, 107, 251	61, 313, 275	14, 793, 976	80.56	19.44
Total \$1,000 to \$100,000.....	263, 225, 800	208, 249, 747	54, 976, 053	79.11	20.89
\$100,000 to \$200,000.....	80, 803, 381	69, 716, 430	11, 086, 951	86.28	13.72
\$200,000 to \$300,000.....	54, 320, 962	47, 016, 371	7, 304, 591	86.55	13.45
\$300,000 to \$400,000.....	35, 105, 025	32, 535, 480	2, 569, 545	92.68	7.32
\$400,000 to \$500,000.....	18, 953, 857	15, 338, 992	3, 614, 865	80.93	19.07
Total \$100,000 to \$500,000.....	189, 183, 225	164, 607, 273	24, 575, 952	87.00	13.00
\$500,000 to \$600,000.....	16, 496, 697	13, 866, 615	2, 630, 082	84.06	15.94
\$600,000 to \$700,000.....	13, 075, 877	11, 133, 599	1, 942, 278	85.15	14.85
\$700,000 to \$800,000.....	7, 193, 431	5, 734, 105	1, 459, 326	79.71	20.29
\$800,000 to \$900,000.....	6, 053, 006	6, 053, 006	-----	100.00	-----
\$900,000 to \$1,000,000.....	5, 767, 756	5, 767, 756	-----	100.00	-----
Total \$500,000 to \$1,000,000.....	48, 586, 767	42, 555, 081	6, 031, 686	87.58	12.42
\$1,000,000 and over.....	167, 640, 309	154, 238, 120	13, 402, 189	92.00	8.00
Total.....	1 672, 022, 084	1 571, 804, 490	100, 217, 594	85.09	14.91

† Includes 1,000 pending Indian cases involving tax amounting to \$495,610.

*Income tax, estate tax, and gift tax cases before the United States Board of Tax Appeals, up to and including June 30, 1927, as shown by the records of the appeals division, Office of General Counsel, Bureau of Internal Revenue. Classified by size of tax involved and showing for each class the number of cases and total tax*

## PENDING INDIAN CASES

Size of tax involved	Number of cases	Amount of tax involved
Less than \$100.....	37	\$2, 676
\$100 to \$500.....	689	193, 891
\$500 to \$1,000.....	172	119, 534
\$1,000 to \$10,000.....	102	179, 509
Total.....	1, 000	495, 610

*Cases pending in the appeals division, Office of the General Counsel, Bureau of Internal Revenue, showing, by revenue acts, the sections which appear ten or more times*

Revenue act of 1916		Revenue act of 1917		Revenue act of 1918		Revenue act of 1921		Revenue act of 1924		Revenue act of 1926	
Section	Number of times each section appears	Section	Number of times each section appears	Section	Number of times each section appears	Section	Number of times each section appears	Section	Number of times each section appears	Section	Number of times each section appears
12	25	207	349	234	3,037	234	2,611	214	269	280	1,227
10	12	12	303	326	2,145	214	2,242	234	250	277	535
Misc.	39	210	225	328	1,531	202	1,635	213	206	212	96
		10	135	327	1,515	213	1,573	202	137	1,203	77
		2	92	202	1,427	326	1,059	277	89	1,106	13
		5	48	213	1,253	233	631	212	83	1,109	10
		31	30	214	1,162	212	577	302	50	234	10
		209	28	325	1,054	325	508	233	50	202	10
		1	28	233	854	240	471	201	42	Misc.	81
		13	13	240	621	201	414	219	41		
		Misc.	101	212	509	328	409	204	41		
				201	429	327	596	1,200	39		
				203	427	218	363	215	37		
				250	393	204	310	218	35		
				218	376	250	291	245	30		
				200	322	219	275	278	26		
				235	188	402	257	231	22		
				219	131	215	241	206	22		
				232	113	203	205	209	21		
				204	107	200	170	303	18		
				215	92	235	161	319	16		
				231	71	403	112	206	15		
				230	67	206	112	203	15		
				331	65	232	107	232	14		
				1	46	231	98	274	13		
				402	40	3,176	62	320	12		
				301	40	1,331	58	216	12		
				277	36	245	58	1,201	11		
				302	33	223	50	235	11		
				303	29	216	44	207	11		
				2	28	2	41	240	10		
				311	26	1	34	Misc.	129		
				330	21	331	32				
				216	21	302	26				
				223	20	230	25				
				305	16	246	20				
				403	14	220	18				
				222	11	277	16				
				Misc.	162	236	16				
				(1)	40	305	14				
						301	14				
						221	14				
						238	13				
						222	13				
						242	12				
						210	12				
						262	11				
						211	11				
						217	10				
						Misc.	115				
						(1)	75				
	76		1,352		18,472		16,042		1,777		2,059

<sup>1</sup> No section given.

#### RÉSUMÉ

Revenue Act of 1916—Total number of times sections appear.....	76
Revenue Act of 1917—Total number of times sections appear.....	1,352
Revenue Act of 1918—Total number of times sections appear.....	18,472
Revenue Act of 1921—Total number of times sections appear.....	16,042
Revenue Act of 1924—Total number of times sections appear.....	1,777
Revenue Act of 1926—Total number of times sections appear.....	2,059
No information as to Revenue Acts or sections given.....	4,460



## REVENUE ACT OF 1917

**349 petitions.**

Section 207 relates to invested capital and provides that the term "invested capital" for any year means the average invested capital for the year averaged monthly and does not include stocks, bonds (other than obligations of the United States), or other assets the income from which is not subject to tax nor money or other property borrowed. The issues arising under this section are mainly those of law.

**303 petitions.**

Section 1207 amends section 12 of the act of September 8, 1916, and provides that (a) interest paid on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation, and (b) the amount paid as income and excess profits taxes may not be deducted in computing net income. The issues arising under this section are mainly those of fact.

**225 petitions.**

Section 210 provides for the taxation of a trade or business where the invested capital can not be satisfactorily determined by comparison with representative taxpayers. The issues arising under this section are mainly those of fact.

**135 petitions.**

Section 1206 amends section 10 of the act of September 8, 1916, and provides for an additional tax on the undistributed income of corporations. The issues arising under this section are mainly those of fact.

**92 petitions.**

Section 2 provides that, in addition to the additional tax imposed by the act of September 8, 1916, there shall be assessed a like additional tax upon the income of every individual for 1917 and every calendar year thereafter. The issues arising under this section are mainly those of fact.

**48 petitions.**

Section 1201 amends section 5 of the act of September 8, 1916, and provides that (a) interest paid on indebtedness incurred for the purchase of obligations or securities, the interest upon which is exempt from taxation, and (b) the amount paid as income and excess-profits taxes may not be deducted in computing net income and that gifts to corporations organized for religious, charitable, etc., purposes may be deducted to an amount not in excess of 15 per cent of taxpayer's taxable net income. The issues arising under this section are mainly those of fact.

**30 petitions.**

Section 1211 amends title 1 of act of September 8, 1916, by adding to part 111 \* \* \* Section 31 which provides that (a) the term "dividends" shall be held to mean any distribution made or ordered to be made by a corporation out of its earnings or profits accrued since March 1, 1913, and (b) any distribution made to shareholders in 1917 or subsequent tax years shall be deemed to have been made from the most recently accumulated undivided profits or surplus. The issues arising under this section are mainly those of fact.

**28 petitions.**

Section 209 provides for the taxation at special rates of a business having no invested capital or not more than a nominal capital. The issues arising under this section are mainly those of law.

**28 petitions.**

Section 1 provides that in addition to the normal tax imposed by the act of September 8, 1916, there shall be assessed a normal tax of 2 per cent upon the income of every individual, a citizen or resident of the United States for 1917 and every calendar year thereafter. The issues arising under this section are mainly those of fact.

**13 petitions.**

Section 1208 amends section 13 of act of September 8, 1916, and provides that the provisions relating to the tax required to be deducted and withheld shall be made applicable to the tax imposed by subdivision (a) of section 10. The issues arising under this section are mainly those of fact.

## REVENUE ACT OF 1918

**3,037 petitions.**

Section 234 lists the allowable deductions from gross income, such as ordinary and necessary expenses, interest paid or accrued, taxes paid or accrued, losses sustained, bad debts, dividends of domestic corporations, depreciation, amortization of war facilities, depletion, inventory losses, and certain special provisions applicable to insurance companies. The issues arising hereunder concern both questions of law and fact.

**2,145 petitions.**

Section 326 relates to the determination of the invested capital and specifies the elements thereof, such as the actual cash or tangible property paid in for the capital stock, and paid-in and earned surplus or undivided profits. In addition it provides that adjustments be made for intangible property and inadmissible assets. Mixed questions of fact and law are presented.

**1,531 petitions.**

Section 328 determines the method of computing the war and excess-profits taxes in the special cases as defined by section 327. Questions of fact are chiefly involved under this section.

**1,515 petitions.**

Section 327 specifies the special cases in which the war and excess-profits taxes shall be computed as provided by section 328, i. e., cases in which it is impossible to determine the statutory invested capital, foreign corporations, and cases in which a mixed aggregate of tangible and intangible property has been paid in for stock or stocks and bonds and it is not possible to ascertain the respective values of each class of property. Mixed questions of law and fact are involved under this section.

**1,427 petitions.**

Section 202 makes provision relative to the basis on which to compute the gain or loss resulting from the sale or exchange of property and the method of determining the amount of gain or loss, if any, resulting therefrom, such basis being generally cost or March 1, 1913, value whichever is higher. Questions arising under this section are questions of both law and fact.

**1,253 petitions.**

Section 213, in defining the term "gross income," provision is made for the inclusion of compensation for personal and professional services, business income, profits from sales of and dealings in property, interest, rent, dividends, and gains, profits, and income derived from any source whatever, unless exempt from tax by law; and for the exclusion of proceeds of insurance policies, the value of property acquired by gift, bequest, devise, or descent, interest upon the obligations of a State or political subdivision thereof, income of foreign governments received from sources within the United States, amounts received as compensation for personal injuries or sickness, and income derived from any public utility or the exercise of any essential governmental function. There is also provided a maximum exemption of \$3,500 with respect to compensation received during the World War by a person in the military or naval forces of the United States. The issues hereunder involve questions of both law and fact.

**1,162 petitions.**

Section 214 provides for the deductions allowed individuals and mentions specifically ordinary and necessary business expenses, interest, taxes, losses sustained, bad debts, depreciation, obsolescence, amortization, depletion, charitable contributions, loss due to a material reduction in the value of inventory, and specifies which of these deductions are allowable in the case of a nonresident alien individual. The issues hereunder involve questions of both law and fact.

**1,054 petitions.**

Section 325 defines the terms relating to invested capital. These are tangible and intangible property, admissible and inadmissible assets and borrowed capital. The issues raised are in the majority of the cases questions of law.

**854 petitions.**

Section 233 defines the term gross income to be the same as that provided for individual taxpayers by section 213, with certain exceptions applying to insurance companies and foreign corporations. The issues involved are both of law and fact.

**621 petitions.**

Section 240 requires the filing of consolidated returns by corporations therein classified as affiliated. The appeals filed under this section present both legal issues and questions of fact.

**509 petitions.**

SEC. 212. (a) That in the case of an individual the term "net income" means the gross income as defined in section 213, less the deductions allowed by section 214.

(b) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 200, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

(c) If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 226. Questions arising under this section are mainly those of fact.

**429 petitions.**

Section 201 defines the term "dividend" as distributions out of earnings and profits accumulated since February 28, 1913, and makes provision as to what distributions by corporations shall be subject to tax as dividends to the distributee stockholders. Questions arising under this section are questions of both law and fact.

**427 petitions.**

Section 203 provides for the use of inventories where essential to an accurate determination of income. Under this provision of law the recognized bases of inventory valuation are cost, cost or market, whichever is lower, the retail method, the farm price method, and, in the case of dealers in securities, market value. The issues under this section rest mainly upon questions of fact.

**393 petitions.**

Section 250 provides that the tax shall be paid in four equal quarterly installments. If any installment is not paid when due the whole amount of tax shall become due and payable upon notice and demand from collector.

The commissioner is required to examine the return as soon as practicable after filing. If the correct tax is greater or less than that shown on the return the installments shall be recomputed and if the amount already paid exceeds that which should have been paid on the installment basis the excess shall be credited to subsequent installments, if any, and if none, the excess shall be credited or refunded as provided in section 252. If the amount already paid is less than that which should have been paid, the difference, to the extent not covered by any credits due the taxpayer under section 252, shall be paid upon notice and demand. If an understatement of tax by a taxpayer is due to negligence, without intent to defraud, 5 per cent of the deficiency and interest at 1 per cent per month on the amount of the deficiency in each installment shall be added as part of the tax. If the under statement is false or fraudulent with intent to evade the tax, there shall be added, in lieu of the penalty provided by section 3176, Revised Statutes, but in addition to other penalties provided by law, 50 per cent of the deficiency.

The tax due under returns made pursuant to section 3176, Revised Statutes, shall be paid upon notice and demand.

The tax due under any return shall be determined and assessed within five years after the return was filed and no suit or proceeding for the collection of any tax shall be begun after five years from the date of filing the return, except in case of a false or fraudulent return the tax due may be determined at any time after return is filed and may be collected at any time after it becomes due.

If any tax is not paid on or before its due date nor within 10 days after notice and demand, there shall be added as part of the unpaid tax 5 per cent thereof plus interest at 1 per cent per month from the due date, except in

cases of estates of insane, deceased, or insolvent persons. If any such unpaid amount is the subject of a bona-fide claim for abatement the 5 per cent thereof shall not be added and interest thereon from the due date until the claim is decided shall be at the rate of one-half of 1 per cent per month. The printed instructions on the return shall constitute notice of the due date of the first installment and demand therefor and the tax computed by the taxpayer shall constitute notice of the amount due.

In case it is necessary to serve warrant of distraint in order to enforce payment of a tax, \$5 shall be added as part of the tax.

If the commissioner finds that a taxpayer designs to do an act prejudicial to collection of the tax the year then last past or for the current year the commissioner shall declare the taxable period of such taxpayer terminated at the close of the last preceding calendar month, notify the taxpayer of the finding and declaration and demand immediate payment of the tax for the period so terminated and of any unpaid tax for the preceding year, whereupon such taxes shall become immediately due and payable. The questions arising under this section are those of law and fact.

### 376 petitions.

Section 218 provides that income from a partnership or personal-service corporation shall be taxed as follows:

(a) A member of a partnership shall include in his individual return his share of profits from a partnership whether distributed or not for the accounting period ending in his taxable year, and in addition to credits allowed in section 216 shall be allowed his proportion of amounts specified in (a) and (b) of section 216 received from partnerships.

(b) If return of partnership is for a fiscal year and rates of tax differ the income for each year shall be apportioned thereto and taxed accordingly.

(c) If return for a member of a partnership is for fiscal year 1918, the proportionate share of excess-profits taxes imposed on partnership for 1927 shall be credited against the income on such individual return taxable at the 1917 rates.

(d) The net income for a partnership shall be computed in same manner as for an individual, except that a deduction for contributions shall not be allowed.

(e) A stockholder of a personal service corporation shall be taxed in the same manner as a member of a partnership. The questions arising under this section are questions of both law and fact.

### 322 petitions.

Section 200 defines "taxable year," "fiscal year," "fiduciary," "withholding agent," "personal service corporation," and the term "paid" as meaning "paid or accrued" depending upon the method of accounting employed. Questions arising under this section are chiefly questions of law.

### 188 petitions.

Section 235 prohibits, among other things, the deduction from gross income of personal, living, and family expenses; amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate; amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or premiums paid on any life insurance policy covering the life of an officer or employee or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy. The questions arising under this section are mainly questions of fact.

### 131 petitions.

Section 219 provides that estates and trusts are subject to both normal tax and surtax as follows:

(a) Income of deceased persons during administration, income held in trust for unborn or unknown persons, income held for future distribution, and income distributed periodically or as court may direct.

(b) The fiduciary shall make return for estates and trusts and compute the net income in same manner as for individuals, except that in lieu of contributions, certain deductions provided in the will for charitable or other purposes may be claimed.

(c) The fiduciary shall pay the tax on the income of an estate or trust after deducting amounts paid to beneficiaries and may claim an exemption of \$1,000 allowed a single person.

(d) Beneficiaries are subject to tax on the share of income received from an estate or trust, subject to the credits allowed by (a) and (b) of section 216 on such income therefrom. The questions arising under this section are those of both law and fact.

#### **113 petitions.**

Section 232 defines the statutory net income as consisting of the gross income as defined by section 233 less the deductions allowed by section 234. The questions presented thereunder involve mainly questions of fact.

#### **107 petitions.**

Section 204 allows to taxpayers the deduction of net losses incurred in the taxable years ended October 31, 1919, November 30, 1919, and December 31, 1919, to be deducted from the net income of the preceding taxable year and if not entirely absorbed by this deduction to be deducted in the succeeding taxable year. Net losses, however, are deductible only when they result from the operation of the taxpayer's regular business or from the sale of property acquired by the taxpayer on or after April 6, 1917, for the purpose of furthering the war. Questions arising under this section are mainly questions of law.

#### **92 petitions.**

Section 215 prohibits the deduction from gross income of personal, living, and family expenses; amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate; amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or premiums paid on any life insurance policy covering the life of an officer or employee or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy. The questions arising under this section are mainly questions of fact.

#### **71 petitions.**

Section 231 provides exemption from taxation of the following classes of corporations: Labor, agricultural, horticultural organizations; mutual savings banks; fraternal beneficiary societies; building and loan associations; cooperative banks; cemetery companies; religious, charitable, scientific, educational organizations, humane societies; business leagues, chambers of commerce, boards of trade; civic leagues, social welfare organizations; clubs; mutual hail, cyclone, or fire insurance companies, mutual ditch, irrigation, or telephone companies; farmers' cooperative sales agencies; holding companies; Federal land banks, national farm-loan associations; and personal-service corporations. The issues arising under this section are both of law and of fact.

#### **67 petitions.**

Section 230 specifies the normal tax rates, for corporations, which were 12 per cent for the year 1918 and 10 per cent for the years 1919 and 1920. The issues arising thereunder consist mainly of questions of fact.

#### **65 petitions.**

Section 331 limits the valuation of assets in a reorganization effected after March 3, 1917, to the same value as that, to the previous owner, in cases in which control of 50 per cent or more in the reorganized company remained in the same persons. The issues raised under this section include both questions of fact and law.

#### **46 petitions.**

Section 1. This section defines various terms used in the act including "person," "corporation," "taxpayer," and certain other terms of frequent occurrence in the act. Questions arising under this section are chiefly questions of law.

Section 2. There is no such provision in the revenue act of 1918.

#### **40 petitions.**

Section 402 provides that there shall be included in the gross estate of a decedent for estate-tax purposes the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, which he owns, or in which he had an interest, including among other things the interest of a

surviving spouse, such as a dower and courtesy, existing at the time of the decedent's death; any interest in property of which he had made a transfer in contemplation of death; interest in property held jointly or as tenants in the entirety by the decedent with any other person; the extent of any property passing under a general power of appointment exercised by the decedent; and the proceeds of life-insurance policies received by the executor in excess of \$40,000. The issues under this section are those of both law and fact.

#### 40 petitions.

Section 301 specifies the war and excess-profits tax rates for the years 1918, 1919, and 1920. Questions of fact are submitted by the majority of the appeals filed under this section.

#### 36 petitions.

Section 277. There is no such section in the Revenue Act of 1918.

#### 33 petitions.

Section 302 provides a limitation upon the amount of the war and excess-profits tax and also provides an alternative computation where the tax as computed under section 301 is in excess of the limitation. The issues arising under this section are for the most part questions of fact.

#### 29 petitions.

Section 303 provides for the computation of the war and excess-profits taxes in the case of a corporation, the income of which is derived both from the employment of its capital and the personal services of its shareholders. The issues coming hereunder are largely questions of fact.

#### 26 petitions.

Section 311 allows as a credit in the computation of the war-profits tax, either the specific exemption of \$3,000 plus the average pre-war net income, increased by 10 per cent of the difference between the pre-war invested capital and that of the taxable year, or the specific exemption plus 10 per cent of the invested capital of the taxable year. The issues herein raised are chiefly questions of fact.

#### 21 petitions.

Section 330 prescribes the basis of determining the pre-war net income and invested capital of corporations which became reorganized, consolidated, or otherwise underwent a change of ownership after January 1, 1911. It also permits a corporation, if organized prior to July 1, 1919, and if the business had been conducted as a partnership from or after January 1, 1918, to the date of its incorporation, to file a return as a corporation for the period from or after January 1, 1918, to the date of its incorporation. Both issues of fact and law are involved herein.

#### 21 petitions.

Section 216 provides that for the purpose of computing the normal tax of individuals the following credits shall be allowed: (a) dividends received from corporations; (b) interest received upon obligations of the United States and War Finance Corporation bonds; (c) personal exemption of \$1,000 for single person, \$2,000 for husband and wife or a head of a family; (d) credit of \$200 for each dependent under 18 years of age or incapable of self-support; (e) for nonresident aliens, same as (c) and (d), if their country allows similar credits to citizens of United States. The questions arising under this section are questions of both law and fact.

#### 20 petitions.

Section 223 provides that a return must be made by every individual if single and having a net income of \$1,000 or over, or if married and having a net income of \$2,000 or over. The questions arising under this section are mainly questions of fact.

#### 16 petitions.

Section 305 declares that the specific exemption of \$3,000 as allowed in the computation of the war and excess-profits taxes shall be prorated when the period subject to the tax is less than twelve months. The issues created by this section are mainly questions of fact.

**14 petitions.**

Section 403 provides that the net estate upon which a tax is levied shall be determined by deducting from the value of the gross estate such amounts as funeral expenses, administration expenses, claims against the estate, etc.; property which the decedent received as a share in the estate of any person who died within five years prior to the death of the decedent; the amount of any bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, or any political subdivision thereof, or for religious, charitable, scientific, or educational purposes; and an exemption of \$50,000. The issues arising under this section are those of both law and fact.

**11 petitions.**

Section 222 allows citizens of the United States a credit against the Federal tax for income, war-profits and excess-profits taxes paid during the taxable year (either directly or indirectly as a member of a partnership or a beneficiary of an estate or trust) to any foreign country upon income derived from sources therein, or to a possession of the United States. Alien residents of the United States are entitled to a credit of such taxes paid to a possession of the United States and also to such taxes paid to his native country if such country allows similar credits to citizens of the United States residing therein. The questions arising under this section are mainly questions of law.

**REVENUE ACT OF 1921****2,611 petitions.**

Section 234 provides for deductions which shall be allowed a corporation in computing its net income subject to tax, including all ordinary and necessary expenses, interest paid or accrued, taxes paid or accrued, except Federal income and profits taxes, losses sustained during the year not compensated for by insurance or otherwise, bad debts, dividends from domestic corporations and certain foreign corporations, depreciation, obsolescence, amortization, depletion in the case of insurance companies (other than life insurance companies) the net addition required by law to be made within the taxable year to reserve funds and the sums other than dividends paid within the taxable year on policy and annuity contracts, and other specific deductions allowed certain types of insurance companies (other than life insurance companies). This section further provides for the conditions under which a deduction may be taken in respect of the proceeds or gains derived from the compulsory or involuntary conversion of property into cash or its equivalent. Further provision is contained therein with respect to the deductions allowed in the case of a foreign corporation or a corporation entitled to the benefits of section 262. The issues arising under this section are both of fact and law.

**2,242 petitions.**

Section 214 provides for deductions allowed individuals and mentions specifically ordinary and necessary business expenses, interest, taxes, losses sustained, bad debts, depreciation, obsolescence, amortization, depletion, charitable contributions, the gain attributable to property compulsorily or involuntarily converted into cash or its equivalent where the proceeds of such conversion are used in the acquisition of other property of a character similar or related in service or use to the property converted, and specifies which of these deductions shall be allowable in the case of a nonresident alien individual. The issues hereunder involve questions of both law and fact.

**1,635 petitions.**

Section 202 makes provision relative to the basis on which to compute the gain or loss resulting from the sale or exchange of property and the method of determining the amount of gain or loss, if any, resulting therefrom, such basis being generally cost or March 1, 1913, value, whichever is higher. Questions arising under this section are questions of both law and fact.

**1,573 petitions.**

Section 213 defines the term "gross income" in the case of individuals, and specifically provides for the inclusion of compensation for personal and professional services, business income, profits from sales of and dealings in property, interest, rent, dividends, and gains, profits, and income derived from any source whatever, unless exempt from tax by law; and the exclusion of life-insurance policies, the value of property acquired by gift, bequest, devise, or

descent, interest upon the obligations of a State or a political subdivision thereof, income of foreign governments received from sources within the United States, amounts received as compensation for personal injuries or sickness, income derived from any public utility or the exercise of any essential governmental function, the income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, amounts received as compensation, allotments, and allowances under war risk insurance and vocational rehabilitation acts, or as pensions from the United States for war-time services, dividends or interest from domestic building and loan associations not in excess of \$300, the rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation, and receipts of shipowners' mutual protection and indemnity associations not organized for profit, not including interest, dividends, and rents. The issues hereunder involve questions of both law and fact.

#### **1,039 petitions.**

Section 326 defines the term "invested capital," and provides what may be included therein such as cash paid in, cash value of tangible property, paid-in or earned surplus, and intangible property. It also provides a limitation for the valuation of intangible property paid prior to March 3, 1917. The issues arising under this section are both those of law and fact.

#### **631 petitions.**

Section 233 defines the term "gross income" of corporations to be the same as that provided for individual taxpayers by section 213, with certain exceptions applying to insurance companies and foreign corporations. The issues involved are both of law and fact.

#### **577 petitions.**

Section 212, in defining the term "net income" in the case of an individual as gross income less statutory deductions, provides that the computation shall be made upon the basis of the taxpayer's annual accounting period and in accordance with the method regularly employed in keeping the taxpayer's books, provided such method clearly reflects income. If the method employed does not clearly reflect income the commissioner is authorized to make the computation on such basis and in such manner as in his opinion clearly reflects income. The issues hereunder involve questions of both law and fact.

#### **498 petitions.**

Section 325 defines the following terms relating to invested capital: "Intangible property," "tangible property," "borrowed capital," "inadmissible assets." It also provides that the par value stock or shares issued at a nominal value or having no par value shall be deemed to be the fair market value as at date of issue. The issues arising under this section are both those of law and fact.

#### **471 petitions.**

Section 240 sets forth the conditions under which two or more domestic corporations shall be deemed to be affiliated, provides that affiliated corporations shall file consolidated returns for the year 1921, and permits affiliated corporations to file either consolidated or separate returns for years beginning on or after January 1, 1922. The issues arising under this section are both of fact and law.

#### **414 petitions.**

Section 201 defines the term "dividend" as distributions out of earnings and profits since February 28, 1913, and makes provision as to what distributions by corporations, including distributions in liquidation, shall be subject to tax as dividends to the distributee stockholders. This section also provides that tax-free distributions by corporations shall be applied to reduce the basis of the stock in the hands of the stockholders on which to compute the gain or loss under section 202. Questions arising under this section are questions of both law and fact.



**409 petitions.**

Section 328 provides that the tax in special cases as specified in section 327 shall be an amount which bears the same ratio to the net income of the taxpayer for the taxable year as the average tax of representative corporations engaged in a like or similar trade or business. The issues arising under this section are mainly those of fact.

**396 petitions.**

Section 327 specifies certain cases wherein the tax shall be computed as provided in section 328. Among these are (a) where the commissioner is unable to determine the invested capital as provided in section 326, (b) the case of a foreign corporation or a corporation entitled to the benefits of section 262, (c) where a mixed aggregate of tangible property and intangible property has been paid in for stocks or bonds and the commissioner is unable to satisfactorily determine the respective values of the several classes of assets, and (d) where the company makes application and the commissioner declares of record that the tax if determined without benefit of this section would, owing to abnormal conditions affecting the capital or income of the corporation, work an exceptional hardship on such company. The issues arising under this section are both those of law and fact.

**363 petitions.**

Section 218 provides that the income from a partnership shall be computed and taxed as follows:

(a) A member of a partnership shall include in his individual return his share of the profits from a partnership whether distributed or not for the accounting period ending within his taxable year.

(b) A partner in addition to the credits allowed by section 216 shall be allowed his proportion of the amounts specified in (a) and (b) of section 216 received by the partnership.

(c) The net income of a partnership shall be computed in the same manner as an individual, except that no deduction shall be allowed for contributions.

(d) A stockholder of a personal-service corporation shall be taxed in the same manner as a member of a partnership on income received to December 31, 1921. After that date income from a personal-service corporation will be taxed at 12½ per cent as a corporation.

The issues arising under this section are mainly those of law.

**310 petitions.**

Section 204 allows taxpayers to deduct net losses incurred in any taxable year beginning after December 31, 1920, from the gross income of the succeeding taxable year, or if not entirely absorbed from the gross income of the next succeeding taxable year. Net losses are deductible only when they result from the operation of the taxpayer's regular business. The benefits of this section are to be prorated in the case of a taxpayer having a fiscal year beginning in 1920 and ending in 1921, as provided. The questions arising under this section are those of law and fact.

**275 petitions.**

Section 219 provides that estates and trusts are subject to normal tax and surtax as follows:

(a) Income of deceased persons during administration, income held in trust for unborn or unknown persons, income held for future distribution, and income distributed periodically or as the court may direct.

If a deficiency in tax is determined upon examination of a return made under the revenue acts of 1916, 1917, and 1918 of this act, the taxpayer shall be notified thereof and given a period of not less than 30 days in which to file an appeal and show cause why the tax should not be paid. Opportunity for a hearing shall be granted, and final decision thereon shall be made as quickly as practicable. Where the commissioner believes that collection of the amount due will be jeopardized by such appeal, he may make the assessment without giving notice or awaiting the conclusion of such hearing.

If any tax is not paid on or before its due date, nor within 10 days after notice and demand, there shall be added as part of the unpaid tax 5 per cent thereof plus interest of 1 per cent per month from the due date, except in cases of estates of insane, deceased, or insolvent persons. If any such unpaid amount is the subject of a bona fide claim for abatement the 5 per cent thereof shall not be added and interest thereon from the due date until the claim is decided

shall be at the rate of one-half of 1 per cent per month. The printed instructions on the return shall constitute notice of the due date of the first installment and demand therefor and the tax computed by the taxpayer shall constitute notice of the amount due. In the case of each subsequent installment the collector may, within 30 days, and not later than 10 days before the installment becomes due, mail to the taxpayer notice of the amount of the installment and the date on which it is due for payment. Such notice shall be sufficient notice and demand under the provisions of this section.

This section also prescribes the time limitations upon the assessment and collection of the tax. The questions arising under this section are mainly those of law.

(b) The fiduciary shall make the return for estates and trusts and compute the net income in the same manner as for an individual, except that in lieu of contributions certain deductions provided in the will for charitable or other purposes may be claimed.

(c) The fiduciary shall pay the tax on the net income of an estate or trust after deducting amounts paid to beneficiaries, and may claim the exemption of \$1,000 allowed a single person.

(d) Beneficiaries are subject to tax on income from an estate or trust, subject to the credits allowed by (a) and (b) of section 216 on income received therefrom.

The issues arising under this section are those of law and fact.

#### 265 petitions.

Section 250 provides that the tax shall be paid in four equal quarterly installments. If any installment is not paid when due, the whole amount of tax shall become due and payable upon notice and demand from collector.

The commissioner is required to examine the return as soon as practicable after filing. If the correct tax is greater or less than that shown on the return, the installments shall be recomputed, and if the amount already paid exceeds that which should have been paid on the installment basis, the excess shall be credited to subsequent installments, if any, and if none, the excess shall be credited or refunded as provided in section 252. If the amount already paid is less than that which should have been paid, the difference, to the extent not covered by any credits due the taxpayer under section 252, together with interest thereon at the rate of one-half of 1 per cent a month from the time the tax was due shall be paid upon notice and demand. If an understatement of tax by a taxpayer is due to negligence without intent to defraud, 5 per cent of the deficiency and interest at 1 per cent per month on the amount of the deficiency in each installment shall be added as part of the tax. If the understatement is false or fraudulent with intent to evade the tax, there shall be added, in lieu of the penalty provided by section 3176, Revised Statutes, but in addition to other penalties provided by law 50 per cent of the deficiency. In such case the whole amount of unpaid tax, including the penalty so added, shall become due and payable upon notice and demand.

#### 257 petitions.

Section 402 provides that there shall be included in the gross estate of a decedent for estate-tax purposes the value at time of his death of all property, real or personal, tangible or intangible, wherever situated, which he owns, or in which he had an interest, including among other things the interest of a surviving spouse, such as a dower and courtesy, existing at the time of the decedent's death; any interest in property of which he had made a transfer in contemplation of death; interest in property held jointly or as tenants in the entirety by the decedent with any other person; the extent of any property passing under a general power of appointment exercised by the decedent; and the proceeds of life-insurance policies received by the executor in excess of \$40,000. The issues under this section are those of both law and fact.

#### 241 petitions.

Section 215 prohibits the deduction from the gross income of an individual, personal, living, or family expenses; amounts paid out for new buildings or for permanent improvements, or betterments made to increase the value of any property or estate; amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or premiums paid on any life-insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary

under such policy. This section also provides that amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by the revenue act of 1921 for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country, for the purpose of computing the income to which such holder is entitled. The questions arising under this section are mainly questions of fact.

#### **205 petitions.**

Section 203 pertains to those cases where the use of inventories is essential to an accurate determination of income. The recognized bases of inventory valuation hereunder are cost, cost or market, whichever is lower, the retail method, the farm-price method, and, in the case of dealers in securities, market value. The issues hereunder rest upon questions of fact.

#### **170 petitions.**

Section 200 defines "taxable year," "fiscal year," "fiduciary," "withholding agent," "personal service corporation," and the term "paid" as meaning "paid or accrued," depending upon the method of accounting employed. Questions arising under this section are chiefly questions of law.

#### **161 petitions.**

Section 235 prohibits, among other things, the deduction from gross income of personal, living and family expenses; amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate; amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or premiums paid on any life insurance policy covering the life of an officer or employee or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy. The questions arising under this section are mainly questions of fact.

#### **112 petitions.**

Section 206 provides a method of taxing capital net gain derived by an individual. It defines the terms of "capital gain," "capital loss," "capital deductions," "capital net gain," "ordinary net income," and "capital assets." It provides that capital net gain at the election of the taxpayer may be taxed separately at 12½ per cent in lieu of the normal tax and surtax rates, but in no case shall the total tax be less than 12½ per cent of the total net income. The questions arising under this section are those of law and fact.

#### **112 petitions.**

Section 403 provides that the net estate upon which a tax is levied shall be determined by deducting from the value of the gross estate such amounts as funeral expenses, administration expenses, claims against the estate, etc.; property which the decedent received as a share in the estate of any person who died within five years prior to the death of the decedent; the amount of any bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, or any political subdivision thereof, or for religious, charitable, scientific, or educational purposes; and an exemption of \$50,000. The issues arising under this section are those of both law and fact.

#### **107 petitions.**

Section 232 defines the term "net income" of corporations subject to tax. The issues under this section are mainly of fact.

#### **98 petitions.**

Section 231 provides exemption from taxation of the following classes of corporations: Labor, agricultural, horticultural organizations; mutual savings banks; fraternal beneficiary societies; building and loan associations; cooperative banks; cemetery companies; religious, charitable, scientific, literary, educational organizations; humane societies; business leagues, chambers of commerce, boards of trade; civic leagues, social welfare organizations; clubs; mutual hail, cyclone, or fire insurance companies; mutual ditch, irrigation, or

telephone companies; farmers' cooperative purchasing and selling agencies; holding companies; Federal land banks, national farm-loan associations; and personal service corporations.

The issues arising under this section are both of law and of fact.

#### 62 petitions.

Section 3176, Revised Statutes, provides that if any person, corporation, company, or association fails to file a return at the time prescribed by law or by regulation made under authority of law or makes, willfully or otherwise, a false or fraudulent return, the collector or deputy collector shall make the return from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. In the case of any failure to make and file a return within the time prescribed by law or by the Commissioner of Internal Revenue or the collector in pursuance of law, the commissioner shall add to the tax 25 per cent of its amount except where it is shown that the failure to file the return was due to a reasonable cause and not to willful neglect. In case a false or fraudulent return is willfully made, the commissioner shall add to the tax 50 per cent of its amount. The issues arising under this section are those of law and fact.

#### 58 petitions.

Section 1331 provides that Title II of the Revenue Act of 1917 shall be construed to impose the taxes therein mentioned upon the basis of consolidated returns of net income and invested capital in the case of domestic corporations and domestic partnerships that were affiliated during the calendar year 1917. For the purpose of this section the corporation or partnership was affiliated with one or more corporations or partnerships (1) when such corporation or partnership owned directly or controlled through closely affiliated interests or by a nominee or nominees all or substantially all of the stock of the other or others, or (2) when substantially all the stock of two or more corporations or the business of two or more partnerships was owned by the same interests provided that such corporations or partnerships were engaged in the same or closely related business, or one corporation or partnership bought from or sold to another corporation or partnership products or services at prices above or below the current market, or one corporation or partnership in any way so arranged its financial relationships with another corporation or partnership as to assign to it a disproportionate share of net income or invested capital. For the purpose of this section, public service corporations which (1) were operated independently (2) were not physically connected or merged and (3) did not receive special permission to make a consolidated return shall be construed to have been affiliated; but a railroad or other public utility which was owned by an industrial corporation and was operated as a plant facility or as an integral part of a group organization of affiliated corporations which were required to file a consolidated return shall be construed to have been affiliated. The provisions of this section are declaratory of the provisions of Title II of the Revenue Act of 1917. The questions arising under this section are mainly those of law.

#### 58 petitions.

Section 245: This section provides that in the case of a life insurance company the term "net income" means the gross income less the amount of the following items: (a) Interest received which is exempt from taxation under section 213 (b) (4) and the excess, if any, of the reserve deduction specified in paragraph (1) subdivision (2) of this section over the amount of such interest; (b) dividends from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation organized under the China trade act, 1922, or from any foreign corporation where 50 per cent of its gross income for the three-year period stated in this section (or fractional part thereof) was derived from sources within the United States; (c) an amount equal to 2 per cent of any sums held at the end of the taxable year as a reserve for dividends, not including dividends payable during the following year; (d) investment expenses paid during the year; (e) taxes and other expenses paid during the year upon real estate owned by the corporation and taxes paid on behalf a shareholder imposed upon his interest as such; (f)

a reasonable allowance for depreciation; (g) interest paid or accrued during the year; (h) an exemption of \$2,000 if the net income is less than \$25,000. This also provides that no deduction shall be allowed for taxes and depreciation unless the corporation report as income the fair rental value of the space occupied by it in its building, and further provides with respect to the net income of a foreign life insurance company that it shall be determined in the proportion which the net income derived from sources within the United States bears to its total net income. The issues arising under this section involve both law and fact.

#### 50 petitions.

Section 223 provides that a return must be made by every individual, if single, having a net income of \$1,000 or over, or if married and having a net income of \$2,000 or over, and every individual, whether married or single, having a gross income of \$5,000 or over, regardless of his net income. The questions arising under this section are mainly those of fact.

#### 44 petitions.

Section 216 provides that for the purpose of computing the normal tax of individuals the following credits shall be allowed—

(a) Dividends received from a domestic corporation.

(b) Interest on obligations of the United States and War Finance Corporation bonds.

(c) Personal exemption of \$1,000 for a single person, \$2,500 for husband and wife or head of family having a net income of not over \$5,000, and \$2,000 for husband and wife and head of family if net income is over \$5,000.

(d) Credit of \$100 for each dependent under 18 years of age or incapable of self-support.

(e) Personal exemption of \$1,000 for a nonresident alien or person entitled to benefits of section 262, and no credit for dependents.

(f) Credits for (c), (d), and (e) shall be determined by status of taxpayer on last day of year and deceased person at date of death and full credits for survivor according to status at end of year.

The issues arising under this section are both of law and fact.

#### 41 petitions.

Section 2 defines various terms used in the act, including "person," "corporation," "taxpayer," and certain other terms of frequent occurrence in the act. Questions arising under this section are chiefly questions of law.

#### 34 petitions.

Section 1 provides that this act may be cited as the "Revenue Act of 1921."

#### 32 petitions.

Section 331 provides that in the case of the reorganization, consolidation, or change of ownership of a trade or business, or change of ownership of property, after March 3, 1917, where an interest or control of 50 per cent or more remains in the same persons, the assets transferred or received shall, for the purposes of invested capital, be allowed no greater value than would have been allowed the previous owner. The issues arising under this section are mainly those of fact.

#### 26 petitions.

Section 302 provides a limitation of the profits tax as imposed by section 301. It provides that such tax shall not exceed 20 per cent of the amount of the net income in excess of \$3,000 and not in excess of \$20,000, plus 40 per cent of the amount of net income in excess of \$20,000. The issues arising under this section are mainly those of fact.

#### 25 petitions.

Section 230 provides that corporations shall be taxed at the rate of 10 per cent for the calendar year 1921, and 12½ per cent for subsequent years, on the excess of net income over credits, provided in section 236. The issues under this section are mainly of fact.

#### 20 petitions.

Section 246 provides that insurance companies (other than life or mutual companies) shall be taxed at the rate of 12½ per cent of the amount of the net income in the case of domestic companies, and of the income of foreign

companies from sources within the United States. It also defines the following terms as used in case of such companies: "Gross income," "net income," "investment income," "underwriting income," "premiums earned on insurance contracts during the taxable year," "losses incurred," and "expenses incurred." The issues arising under this section are both those of law and of fact.

#### 18 petitions.

Section 220 provides that corporations formed or availed of for the purpose of preventing the imposition of surtax on its members or stockholders shall be subject to a tax of 25 per cent on their net income. The issues under this section are mainly of fact.

#### 16 petitions.

Section 277: There is no such section in the Revenue Act of 1921.

#### 16 petitions.

Section 236 provides that a domestic corporation shall be entitled to the following credits:

(a) Interest on obligations of the United States and War Finance Corporation bonds.

(b) A credit of \$2,000 if the net income is not more than \$25,000.

(c) War-profits and excess-profits taxes imposed by Congress.

The questions arising under this section are those of law and fact.

#### 14 petitions.

Section 301 provides, in addition to the taxes imposed by this act upon corporations, a war-profits and excess-profits tax for the year 1921 at the rate of 20 per cent of the net income in excess of the excess-profits credit (determined under sec. 312) and not in excess of 20 per cent of the invested capital, and at the rate of 40 per cent of the amount of the net income in excess of 20 per cent of the invested capital. It also provides a method for computing the war-profits and excess-profits tax in the case of corporations which derive during the year 1921 a net income of more than \$10,000 from any Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive. The issues arising under this section are both those of law and of fact.

#### 14 petitions.

Section 305 provides that if profits tax is computed for a period of less than 12 months the specific exemption of \$3,000 shall be reduced to an amount which is the same proportion of \$3,000 as the number of months in the period is of 12 months. The issues arising hereunder are mainly those of fact.

#### 14 petitions.

Section 221 provides for the withholding at the source a tax of 8 per cent by all persons having control, receipt, custody, or payment of interest (except interest on bank deposits), rent, salaries, wages, premiums, annuities, compensation, or other fixed or determinable annual or periodical income (except dividends allowed as a deduction from gross income and except interest or so-called tax-free bonds) of any nonresident alien individual or partnership composed in whole or in part of nonresident aliens. The commissioner may also authorize the deduction of such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

From interest on bonds, mortgages, deeds of trust, or similar obligations of a corporation which contain a so-called tax-free covenant clause the obligor is required to withhold a tax equal to 2 per cent of the interest payable to a nonresident alien individual, a citizen or resident of the United States, or to a partnership. The commissioner may also authorize such tax to be deducted from the interest on such obligations the owners of which are not known to the withholding agent. No tax is required to be withheld, however, if a citizen or resident entitled to receive such interest files with the withholding agent before February 1 a signed notice in writing claiming the benefit of the personal exemption and credit for dependents to which he is entitled. Provision is also made for allowing at the source the benefit of the personal exemption to which a nonresident alien is entitled.

The questions arising under this section are mainly questions of law.

**13 petitions.**

Section 238 entitles a domestic corporation to credit its Federal income tax plus the war-profits and excess-profits taxes, if any, with the amount of any income, war-profits, and excess-profits taxes paid during the same taxable year to any foreign country or to a possession of the United States. The amount of the credit shall not exceed the same proportion of the Federal taxes (income plus war profits and excess profits) which the taxpayer's net income computed without deduction for any income, war-profits, and excess-profits taxes imposed by any foreign country or possession of the United States) from sources without the United States bears to its entire net income (computed without such deduction) for the same taxable year.

A domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends is deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporations to any foreign country or possession of the United States with respect to the accumulated profits of such foreign corporation from which such dividends were paid which the amount of the dividends bears to the amount of such accumulated profits (income less the income, war-profits, and excess-profits taxes imposed upon such income). Such credit shall not exceed the same proportion of the domestic corporation's Federal tax which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included.

The questions arising under this section are mainly questions of law.

**13 petitions.**

Section 222 allows citizens of the United States a credit against the Federal tax for income, war-profits, and excess-profits taxes paid during the taxable year (either directly or indirectly as a member of a partnership or a beneficiary of an estate or trust) to any foreign country or to any possession of the United States. Alien residents of the United States are entitled to a credit for such taxes paid to a possession of the United States and also to such taxes paid to any foreign country, if the country of which he is a citizen or subject allows a similar credit to citizens of the United States residing in such foreign country.

Such credits are not allowed to a citizen entitled to the benefits of section 262. The amount of the credit allowed under section 212 shall not exceed the same proportion of the Federal tax which the taxpayer's net income (computed without deduction for any income, war-profits, or excess-profits taxes imposed by any foreign country or possession of the United States) from sources without the United States bears to his entire net income (computed without such deduction) for the same taxable year.

The questions arising under this section are mainly questions of law.

**12 petitions.**

Section 210, in providing for a normal tax upon the net income of an individual, imposes a tax of 8 per cent of the amount of the net income in excess of the credits provided in section 216, with the proviso that, in the case of a citizen or resident of the United States, the rate upon the first \$4,000 of such excess amount shall be 4 per cent. The issues hereunder rest mainly upon questions of fact.

**12 petitions.**

Section 242 defines the meaning of the term "life insurance company." The issues arising under this section are mainly those of fact.

**11 petitions.**

Section 262 provides that in the case of citizens of the United States and domestic corporations gross income means only gross income from sources within the United States if 80 per cent or more of their gross income (computed without the benefit of this section) for the three-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States, and in the case of such corporations, if 50 per cent or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; and in the case of such citizen, if 50 per cent or more

of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as employee or agent of another.

Such citizens and corporations are required to include in their gross income all amounts received within the United States whether derived from sources within or without the United States.

The questions arising under this section are mainly questions of fact.

#### 11 petitions.

Section 211 imposes, in addition to the normal tax, a surtax for the taxable year 1921 ranging from 1 per cent of the amount by which the net income exceeds \$5,000 and does not exceed \$6,000 to 65 per cent of the amount by which the net income exceeds \$1,000,000. Section 211 also imposes a surtax for 1922 and subsequent taxable years governed by the act ranging from 1 per cent to the amount by which the net income exceeds \$6,000 and does not exceed \$10,000 to 50 per cent of the amount by which the net income exceeds \$200,000. Section 211 limits the tax attributable to bona fide sales of mines, oil or gas wells, or any interest therein, to 20 per cent and 16 per cent of the selling price of the property or interest for 1921, and for each year thereafter, respectively. The issues hereunder involve mainly questions of fact.

#### 10 petitions.

Section 217 provides that in the case of a nonresident alien individual or of a citizen entitled to the benefits of section 262, interest, dividends (paid by persons in the United States under certain conditions), compensation for labor performed in the United States, rentals or royalties from property located in the United States, and gains from the sale of real property in the United States should be treated as income from sources within the United States. Interest and dividends from sources without the United States, compensation for labor performed without the United States, rentals or royalties from property located without the United States, and gains from the sale of real property located without the United States are to be treated as income from sources without the United States. Provision is made for the deduction from the gross income from sources within the United States, the expenses, losses, and other deductions properly allocable to such income, the deduction from gross income from sources without the United States of expenses, losses, and other deductions properly allocable to such income, as well as a ratable part of such deduction as can not be definitely allocated to some item or class of gross income.

In the case of gross income derived from sources partly within and partly without the United States, the net income is first computed by deducting the deductions apportioned or allocated thereto and a ratable part of any deductions which can not be definitely allocated to some item or class of gross income and the portion of such net income attributable to sources within the United States is to be determined by processes or formulas of general apportionment prescribed by the commissioner.

Income from transportation or other services rendered partly within and partly without the United States or from the sale of personal property produced within and sold without the United States or produced without and sold within the United States is to be treated as derived partly from sources within and partly from sources without the United States. Income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States is to be treated as derived entirely from the country in which sold.

The questions arising under this section are mainly questions of law.

#### REVENUE ACT OF 1924

#### 269 petitions.

Section 214 provides for the deductions allowed individuals in computing net income, and mentions specifically all the ordinary and necessary business expenses, interest, taxes, losses sustained, bad debts, depreciation, depletion, charitable contributions, and specifies which of these deductions may be claimed by a nonresident alien individual. The issues hereunder involve questions of both law and fact.



**250 petitions.**

Section 234 provides that in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed the deductions specifically stated therein. This section contains special provisions with respect to the deductions allowed in the case of mines, oil and gas wells, timber, insurance companies (other than life-insurance companies), foreign corporations, and those corporations entitled to the benefits of section 262. The questions arising under this section involve both law and fact.

**206 petitions.**

Section 213 defines the term "gross income" in the case of individuals, and specifically provides for the inclusion of compensation for personal and professional services, business income, profits from sales of and dealings in property, interest, rent, dividends, and gains, profits, and income derived from any source whatever, unless exempt from tax by law; and for the exclusion of proceeds of life-insurance policies, the value of property acquired by gift, bequest, devise, or descent, interest upon the obligations of a State or political subdivision thereof, income of foreign governments received from sources within the United States, amounts received as compensation for personal injuries or sickness, income derived from any public utility or the exercise of any essential governmental function, the income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country, which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, amounts received as compensation, family allotments and allowances under war-risk insurance, vocational rehabilitation acts, or World War veterans' act, 1924, or as pensions from the United States for war-time services, dividends or interest from domestic building and loan associations not in excess of \$300, the rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation, receipts of shipowners' mutual protection and indemnity associations not organized for profit not including interest, dividends, and rents, amounts distributed to an individual, a resident citizen of China, by a corporation organized under the China trade act, 1922. The issues hereunder involve questions of both law and fact.

**137 petitions.**

Section 202 sets forth the rule for determining the amount of gain or loss resulting from the sale or other disposition of property by comparing the amount of the consideration received therefor with the basis as provided by section 204, with provision that such basis is to be adjusted for expenditures properly chargeable to capital account and for items of loss, exhaustion, wear and tear, obsolescence, amortization, or depletion previously "allowed" with respect to such property. The extent to which the gain or loss shall be recognized is determined in accordance with section 203. Questions arising under this section are questions of both law and fact.

**89 petitions.**

Section 277 provides that the income, excess-profits, and war-profits taxes imposed by the Revenue Act of 1921, as amended, for the year 1921 and succeeding years and the income taxes imposed by this act shall be assessed within four years after the return was filed and no proceeding in court for the collection of such taxes shall be begun after the expiration of such period.

The amount of income, excess-profits, and war-profits taxes imposed by the Revenue Act of 1918, and all prior revenue acts shall be assessed within five years after the return was filed, and no proceeding in court for the collection of such taxes shall be begun after the expiration of such period.

In case of income received during the lifetime of a decedent, the tax shall be assessed and any proceeding in court for collection thereof shall be begun within one year after written request therefor by the personal representative of the estate of the decedent.

The period within which an assessment is required to be made by subdivision (a) of this section shall be extended by 60 days if a notice of such deficiency has been mailed to the taxpayer under subdivision (a) of section 274, and no appeal is filed with the Board of Tax Appeals. If an appeal has been filed, the period shall be extended by the number of days between the date of mailing of such notice and the date of final decision by the board.

The questions involved under this section are those of law and fact.

**83 petitions.**

Section 212, in defining the term "net income" in the case of an individual as gross income less statutory deductions, provides that the computation shall be made upon the basis of the taxpayer's annual accounting period and in accordance with the method regularly employed in keeping the taxpayer's books. If the method employed does not clearly reflect income, the commissioner is authorized to make the computation on such basis and in such manner, as, in his opinion, clearly reflects income. The questions hereunder involve questions of both law and fact.

**50 petitions.**

Section 302 provides that there shall be included in the gross estate of a decedent for estate tax purposes the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, which he owns, or in which he had an interest, including among other things the interest of a surviving spouse, such as a dower and courtesy, existing at the time of the decedent's death; any interest in property of which he had made a transfer in contemplation of death; interest in property held jointly or as tenants in the entirety by the decedent with any other person; the extent of any property passing under a general power of appointment exercised by the decedent; and the proceeds of life-insurance policies received by the executor in excess of \$40,000. The issues under this section are those of both law and fact.

**50 petitions.**

Section 233 provides (a) that the gross income of a domestic corporation means the gross income as defined in sections 213 and 217, except that mutual marine insurance companies shall include therein the gross premiums collected and received by them less amounts paid for reinsurance; and (b) that the gross income of a foreign corporation means only gross income from sources within the United States determined (except insurance companies subject to tax under secs. 243 or 246) in the same manner as provided in section 217. The issues under this section are mainly those of fact.

**42 petitions.**

Section 201 defines the term "dividend" as distributions from earnings and profits accumulated since February 28, 1913, and makes provision as to what distributions by corporations shall be subject to tax as dividends to the distributee stockholders with provision that any tax-free distribution shall be applied to reduce the basis of the stock in the hands of the stockholders on which to compute the gain or loss as provided by section 204. This section also provides that distributions in complete or partial liquidation of a corporation shall be treated as in full or part payment in exchange for the stock resulting in a gain or loss to be determined in accordance with sections 202 and 203. Questions arising under this section are questions of both law and fact.

**41 petitions.**

Section 219 provides that estates and trusts are subject to normal tax and surtax as follows:

(a) Income accumulated in trust for unborn or unknown persons, income held for future distribution, income distributed currently to beneficiaries or as directed by the court, income of deceased persons during administration, and income which may be distributed or accumulated.

(b) The fiduciary shall make the return for the estate or trust and compute the net income in the same manner as for an individual, except that in lieu of contributions certain deductions provided in the will for charitable or other purposes may be claimed; also amounts paid or credited to beneficiaries.

(c) For normal tax purposes the exemption of \$1,000 as allowed a single person may be claimed and the credits allowed by (a) and (b) of section 216.

(d) The beneficiary when computing the tax on income from an estate or trust may claim his share of the credits allowed by (a) and (b) of section 216.

(e) Where the grantor has power to revest any part of the trust, such part is taxable to him.

(f) Where grantor has power to hold trust for future distribution or apply it on insurance on his life, such part is taxable to him.

The questions arising under this section are both of law and fact.

**41 petitions.**

Section 204: This section pertains to the basis for determining the gain or loss from the sale or other disposition of property and the basis on which to compute the deductions for depletion and depreciation. This section makes provision relative to such basis with respect to property acquired both before and after March 1, 1913, by purchase or by gift, bequest, devise, or inheritance, or by exchange under section 203. Questions arising under this section are questions of both law and fact, the latter pertaining chiefly to the value of property on the date of acquisition where the value as of that date is the basis on which to compute the gain or loss.

**39 petitions.**

Section 1200 provides that the tax on a calendar-year return for 1923 shall be reduced by 25 per cent of the amount shown thereon, and further provides how this credit may be taken where part or all of the tax has been paid. The questions arising under this section are mainly those of fact.

**37 petitions.**

Section 215 prohibits the deduction from the gross income of an individual of personal, living, or family expenses; amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate; amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or premiums paid on any life-insurance policy covering the life of an officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by the Revenue Act of 1924 for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

Questions arising under this section are mainly questions of fact.

**35 petitions.**

Section 218 provides that the income from a partnership shall be computed and taxed as follows:

(a) A member of a partnership shall include in his individual return his share of the profits from a partnership whether distributed or not for the accounting period ending within his taxable year.

(b) A partner, in addition to the credits allowed by section 216, shall be allowed his proportion of the amounts specified in (a) and (b) of section 216 received by the partnership.

(c) The net income of a partnership shall be computed in the same manner as an individual, except that no deduction shall be claimed for contributions.

The issues arising under this section are both of law and fact.

**30 petitions.**

Section 245: This section provides that in the case of a life insurance company the term "net income" means the gross income less the amount of the following items: (a) Interest received which is exempt from taxation under section 213(b)(4) and the excess, if any, of the reserve deduction specified in paragraph (1) subdivision (2) of this section over the amount of such interest; (b) dividends from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation organized under the China trade act, 1922, or from any foreign corporation where 50 per cent of its gross income for the three-year period stated in this section (or fractional part thereof) was derived from sources within the United States; (c) an amount equal to 2 per cent of any sums held at the end of the taxable year as a reserve for dividends, not including dividends payable during the following year; (d) investment expenses paid during the year; (e) taxes and other expenses paid during the year upon real estate owned by the corporation and taxes paid on behalf of a shareholder imposed upon his interest as

such; (f) a reasonable allowance for depreciation; (g) interest paid or accrued during the year; (h) an exemption of \$2,000 if the net income is less than \$25,000. This also provides that no deduction shall be allowed for taxes and depreciation unless the corporation report as income the fair rental value of the space occupied by it in its building, and further provides with respect to the net income of a foreign life insurance company that it shall be determined in the proportion which the net income derived from sources within the United States bears to its total net income. The issues arising under this section involve both law and fact.

## 26 petitions.

Section 278 provides that in the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed or a proceeding in court for the collection of such tax may be begun without assessment at any time.

Where both the commissioner and the taxpayer have signed a waiver of the limitation prescribed in section 277, the tax may be assessed at any time prior to the expiration of the waiver.

Where the tax is assessed within the period prescribed in section 277 or in this section, it may be collected by distraint or by a proceeding in court begun within six years after assessment. This act shall not be construed as preventing the beginning without assessment of a proceeding in court for the collection of the tax at any time before the expiration of the period within which an assessment may be made.

This section shall not authorize the assessment of a tax or collection thereof by distraint or proceeding in court if at the time of the enactment of this act such assessment, distraint, or proceeding was barred by the period of limitation then in existence, or affect any assessment made or distraint or proceeding in court begun before the enactment of this act.

The questions arising under this section are those of law and fact.

## 22 petitions.

Section 231 provides exemption from taxation of the following classes of corporations: Labor, agricultural, horticultural organizations, mutual savings banks; fraternal beneficiary societies; building and loan associations; cooperative banks; cemetery companies; religious, charitable, scientific, literary, educational organizations; humane societies; business leagues, chambers of commerce, boards of trade; civic leagues, social welfare organizations; employees' associations; clubs; benevolent life insurance, mutual hail, cyclone, casualty, or fire insurance companies; mutual ditch, irrigation or telephone companies; farmers' cooperative purchasing and selling agencies, holding companies, Federal land banks, national farm-loan associations, and Federal intermediate credit banks.

The issues arising under this section are both of law and of fact.

## 22 petitions.

Section 206 provides that if the taxpayer sustains a net loss in his business it may be allowed as a deduction in computing his income for the succeeding year, and if it is in excess of the income for that year the balance may be claimed as deduction against the net income for the next succeeding taxable year. The issues arising under this section are those of law and fact.

## 21 petitions.

Section 209 provides generally that individual may reduce the tax on his net income by 25 per cent of the tax on his earned net income. The questions arising under this section are those of law and fact.

## 18 petitions.

Section 303 provides that the net estate upon which a tax is levied shall be determined by deducting from the value of the gross estate such amounts as funeral expenses, administration expenses, claims against the estate, etc.; property which the decedent received as a share in the estate of any person who died within five years prior to the death of the decedent; the amount of any bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, or any political subdivision thereof, or for religious, charitable, scientific, or educational purposes; and an exemption of \$50,000. The issues arising under this section are those of both law and fact.

**16 petitions.**

Section 219 provides for a graduated tax ranging from 1 to 40 per cent on gifts in amounts from \$50,000 to \$10,000,000 and over. The issues arising under this section are both of law and fact.

**15 petitions.**

Section 208 provides for taxing capital net gain and deductions for capital net losses in case of individuals. It provides that a capital net gain may at the election of the taxpayer be taxed at 12½ per cent, and that the normal tax and surtax on the ordinary net income shall be reduced by 12½ per cent of the capital net loss, but in no case shall the tax be less than computed without this provision. The questions arising under this section are those of law and fact.

**15 petitions.**

Section 203 prescribes the extent to which gain or loss resulting from the sale or exchange of property, determined under section 202, shall be recognized, with specific provision as to certain exchanges from which no gain or loss is recognized. This section embraces the whole field of sales and exchanges of property with the specific provision relative to exchanges of stock or securities in connection with corporate reorganizations. Questions arising under this section are questions of both law and fact.

**14 petitions.**

Section 232 provides that the net income of a domestic corporation is the gross income as defined by section 233 less the deductions allowed by sections 234 and 206, and shall be computed on the same basis as provided in section 212(b) or section 226. It further provides that in the case of a foreign corporation or of a corporation entitled to the benefits of section 262, the net income shall be computed in the same manner as the net income of a nonresident alien individual, as provided in section 217. The issues under this section are mainly those of fact.

**13 petitions.**

Section 274 provides that whenever in the case of any taxpayer the commissioner determines the deficiency in respect of the tax imposed by this Title (II) the taxpayer shall, except as provided in subdivision (d), be notified of such deficiency by registered mail and that he may file an appeal with the Board of Tax Appeals within 60 days after such notice is mailed.

If the board determines a deficiency, the amount shall be assessed and paid upon notice and demand. No part of the amount determined as deficiency by the commissioner and disallowed as such by the board shall be assessed, and a proceeding in court without assessment for the collection of any part of the amount so disallowed. Such proceeding shall be begun within one year after the final decision of the board.

If no appeal is filed within the time prescribed, the deficiency shall be assessed and paid upon notice and demand.

If the commissioner believes that assessment or collection of the deficiency will be jeopardized by delay, it shall be assessed immediately and notice and demand shall be made by the collector for the payment thereof. In such case the assessment may be made without the mailing of the 60-day letter or before the expiration of the 60-day period from the date of mailing a 60-day letter or at any time prior to the final decision by the board, even though an appeal has been filed. If no claim for abatement is filed as provided in section 279, the deficiency shall be paid upon notice and demand.

Interest upon the deficiency or if the tax is paid in installments upon the part of the deficiency prorated to each installment shall be assessed at the same time as the deficiency and shall be paid as a part of the tax upon notice and demand at the rate of 6 per cent per annum from the due date of the tax or the date of payment of the installment to the date the deficiency is assessed.

The questions involved under this section are those of law and fact.

**12 petitions.**

Section 320 provides that if a gift is made in property the fair market value thereof at the date of the gift shall be the amount of the gift. The issues arising under this section are mainly those of fact.

**2 petitions.**

Section 216 provides that for the purpose of computing the normal tax the following credits shall be allowed:

- (a) Dividends from domestic corporations.
- (b) Interest upon obligations of the United States.
- (c) Personal exemption of \$1,000 for a single person, \$2,500 for a husband and wife or the head of a family.
- (d) Credit of \$400 for each dependent under 18 years of age or incapable of self-support.
- (e) Personal exemption of \$1,000 for a nonresident alien, or person entitled to benefits of section 262, and no credit for dependents, except residents of Canada or Mexico.

(f) Credits in (d) and (e) determined according to status of taxpayer on last day of year; the credit in (c) prorated if status of taxpayer changes during year; and credits in (c), (d), and (e) shall be determined by taxpayer at date of death, and the survivor according to status at the end of year.

The issues arising under this section are both of law and fact.

**11 petitions.**

Section 1201 provides how the credit of 25 per cent provided in section 1200 shall be determined in case of a return made for a fiscal year beginning in 1922 and ending in 1923, or beginning in 1923 and ending in 1924. The questions arising under this section are mainly those of fact.

**11 petitions.**

Section 235 prohibits, among other things, the deduction from gross income of personal, living, and family expenses; amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate; amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or premiums paid on any life-insurance policy covering the life of an officer or employee or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy. The questions arising under this section are mainly questions of fact.

**11 petitions.**

Section 207 provides for computing the net income and tax on fiscal year returns as follows:

(a) If return begins in one calendar year and ends in another and the law is different from the first, the tax shall be computed for each year as if it were a full year and apportioned accordingly.

(b) If an individual return is for a calendar year and income is derived from a partnership having a fiscal year and the law applicable to the second year is different from the first, the income attributable to last year is added to the income on the individual return and taxed at the rates applicable to that year, and the income attributable to the prior year is taxed at rates in the next higher brackets applicable to that year.

(c) Provides for tax paid on fiscal year returns at 1923 rates before the enactment of the 1924 act.

The questions arising under this section are mainly those of fact.

**10 petitions.**

Section 240 provides that affiliated domestic corporations, as defined therein, may elect to file a consolidated return of net income or separate returns, but that such election will be binding upon them for all subsequent years unless permission to change the basis is granted by the commissioner. It also provides for the determination of the true net income of related trades or businesses (whether incorporated or not, and whether organized in the United States or not) and for the treatment thereunder of a corporation entitled to the benefits of section 262. The issues under this section constitute both law and fact.

## REVENUE ACT OF 1926

**1,188 petitions.**

Section 280 provides for the assessment and collection of tax due from a dissolved or reorganized corporation, the estate of a deceased or insolvent person or other taxpayer whose assets have been distributed, from the dis-

tributees of the assets. The period of limitation for assessing such tax against distributees is (1) within one year after the expiration of the period of limitation for assessment against the transferor taxpayer; or (2) in cases where the limitation period for assessment against the transferor expired before the enactment of this act, but the assessment was made within such period, within six years after such assessment was made, but in no case later than one year after enactment of this act; or (3) if a court proceeding for collection of the tax was begun against the transferor within either of the foregoing periods, then within one year after return of execution in such proceeding.

For the purposes of the section, if a taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer is the period that would be in effect had the death or termination of existence not occurred.

Where any suit or other proceeding for the enforcement of a transferee's liability was pending at the date of enactment of this act the provisions of this section do not apply.

The term "transferee" includes heir, legatee, devisee, and distributee.

Except as above indicated, a transferee's liability is to be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency imposed by Title II of the Revenue Act of 1926 (including the provisions in case of delinquency in payment, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refund).

The questions arising under this section are mainly those of law.

### 535 petitions.

Section 277(a) provides for the periods of limitation upon assessment and collection of taxes under the various revenue acts.

Section 277(b) provides that upon the mailing of a notice under subdivision (a) of section 274 of a deficiency in tax the running of the statute provided in this section or in section 278 on assessment and the beginning of distraint or a proceeding in court for collection thereof shall be suspended during the period the commissioner is prohibited from assessing or collecting such deficiency and for 60 days thereafter.

The issues arising under this section are mainly those of law.

### 96 petitions.

Section 212 defines the term "net income" in the case of an individual and stipulates that the net income shall be computed upon the basis of the taxpayer's accounting period and in accordance with the method regularly employed in keeping the taxpayer's books. If such method does not clearly reflect income, the commissioner is authorized to compute the income under such basis and in such manner as, in his opinion, will clearly reflect income. The issues hereunder involve questions of law and fact.

### 77 petitions.

Section 1208 provides for the retroactive application of subdivision (d) of section 212 in computing income from installment sales under the provisions of the Revenue Acts of 1916, 1917, 1918, 1921, and 1924, or under any of those acts as amended. Any excess of tax paid under the foregoing acts prior to enactment of this act is subject to credit or refund under the provisions of section 284 if such excess is due to the retroactive effect of section 212 as provided for in this section.

The questions arising under this section are those of both law and fact.

### 13 petitions.

Section 1106 (a) provides that the bar of the statute of limitations against the United States in respect of any internal-revenue tax not only bars the remedy but also extinguishes the liability. No credit or refund in respect of such tax is allowable unless the taxpayer has overpaid the tax.

The bar of the statute of limitations against the taxpayer in respect of any internal-revenue tax not only bars the remedy but also extinguishes the liability. No collection in respect of such tax is to be made unless the taxpayer has underpaid the tax.

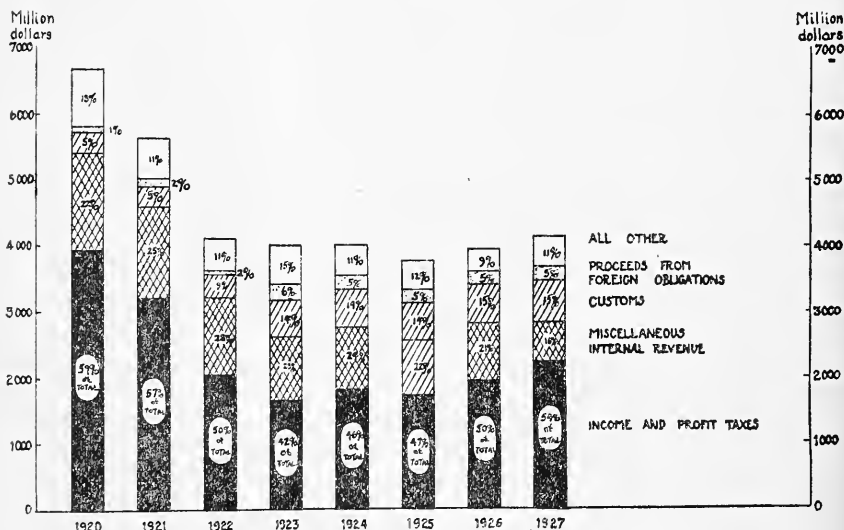
The questions arising under this section are those of both law and fact.

## 10 petitions.

Section 202 sets forth the rule for determining the amount of gain or loss, resulting from the sale or other disposition of property by comparing the amount of the consideration received therefor with the basis as provided by section 204, with provision that such basis is to be adjusted for expenditures properly chargeable to capital account and for deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion previously "allowable" with respect to such property. The extent to which the gain or loss shall be recognized is determined in accordance with section 203. Questions arising under this section are questions of both law and fact.

## PRINCIPAL SOURCES OF ORDINARY RECEIPTS

Fiscal Years. 1920-1927  
(from daily Treasury statements)

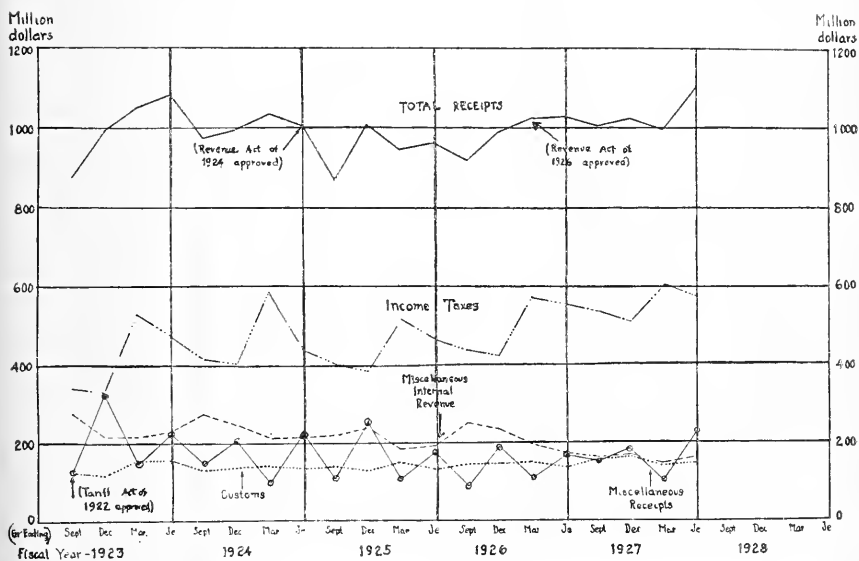




## ORDINARY RECEIPTS BY PRINCIPAL SOURCES

Quarterly, Fiscal Years 1923-

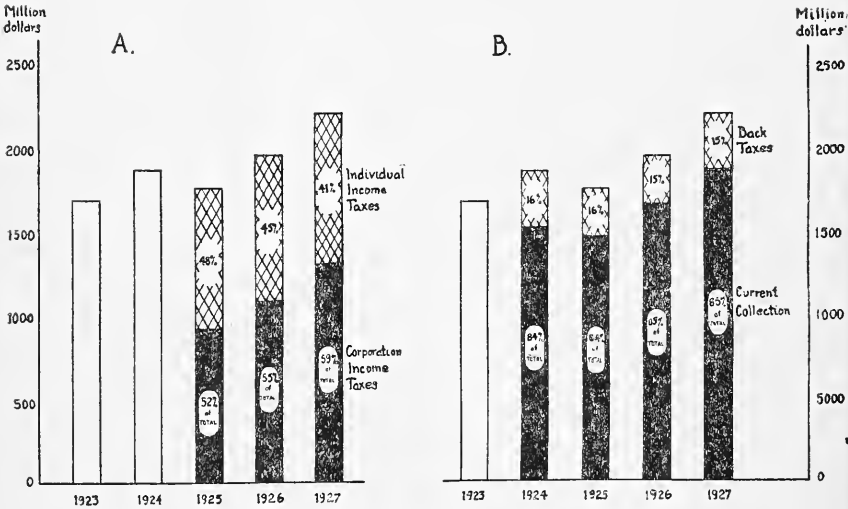
(from daily Treasury statements)



# INCOME TAX COLLECTIONS, FISCAL YEARS 1923-1927

Classified by:

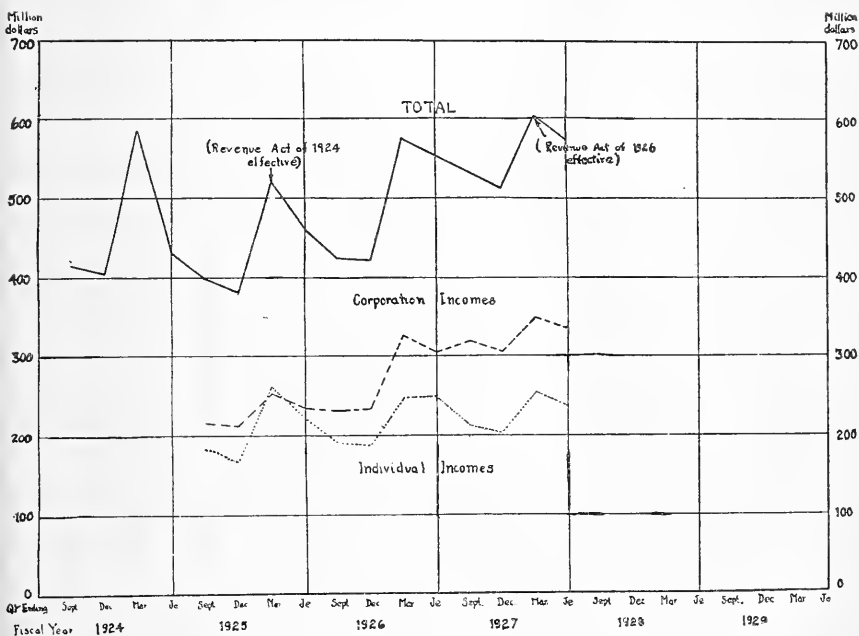
- A. Corporation and Individual Income Taxes.  
(From collectors' reports. No segregation for 1923 and 1924.)
- B. Current and Back Tax Collections.  
(From collectors' reports. No segregation for 1923; 1924 partly estimated.)



## INCOME TAX COLLECTIONS: TOTAL AND BY CORPORATION AND INDIVIDUAL INCOMES

Quarterly, Fiscal Years 1924 -

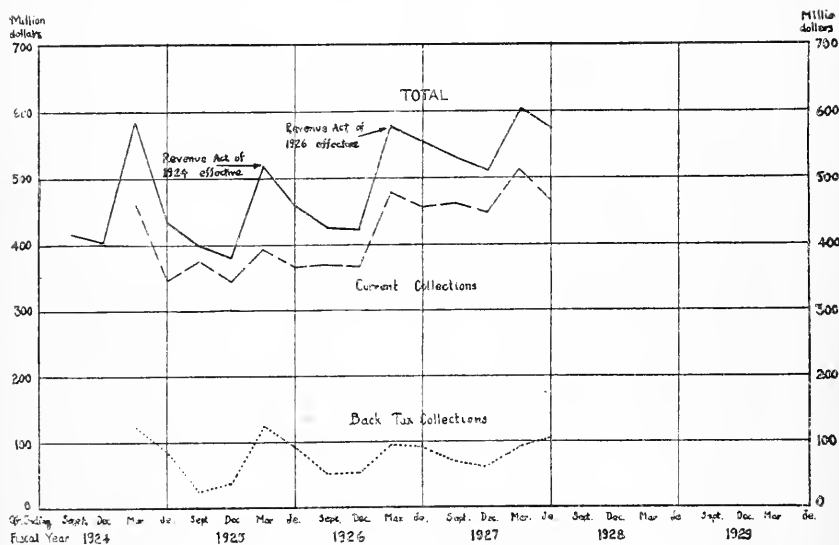
(From collectors reports. Collections not segregated by corporation and individual incomes prior to July 1924).



## INCOME TAX COLLECTIONS, TOTAL AND BY CURRENT AND BACK TAXES.

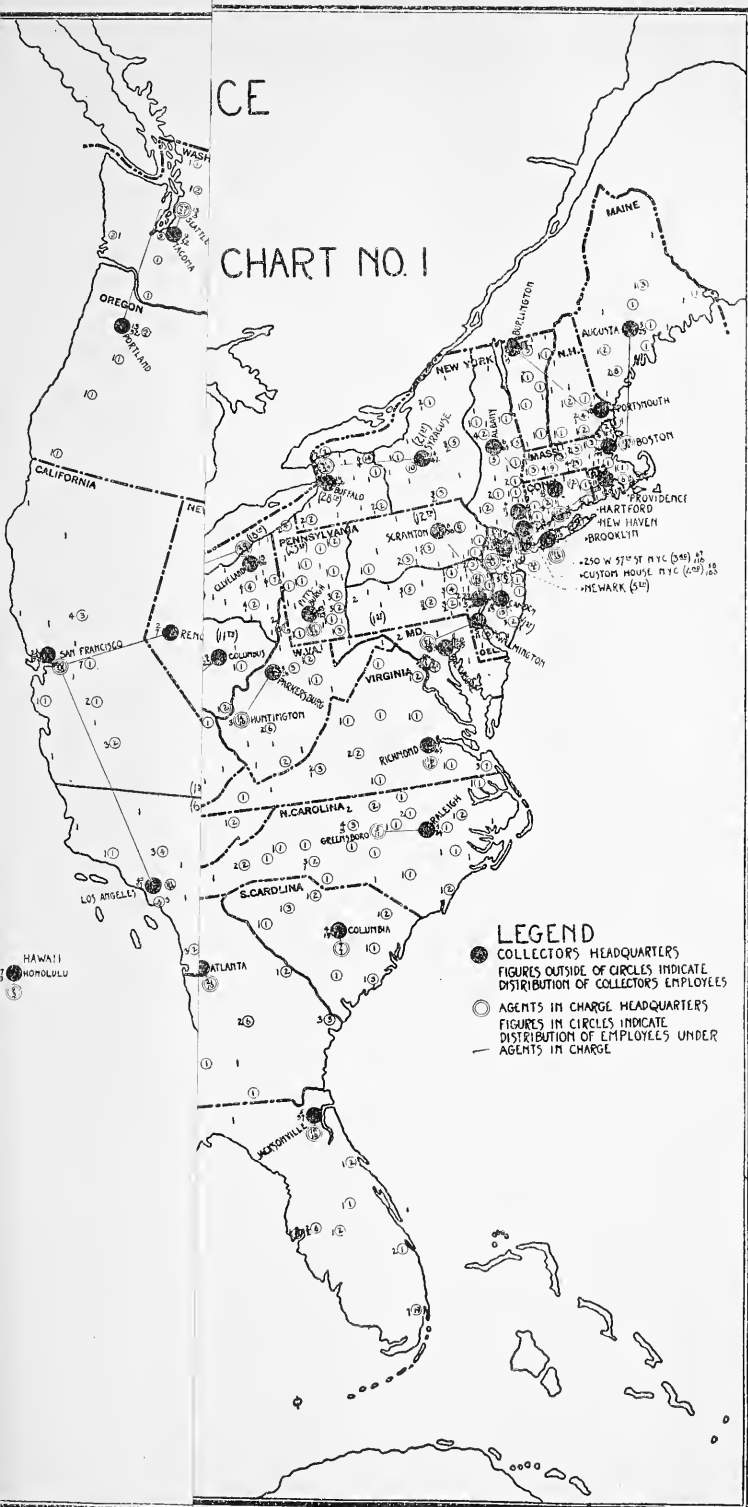
Quarterly, Fiscal Years 1924 -

(From collector's reports. Collections not segregated by current and back taxes prior to January 1924)



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## CHART NO. 1

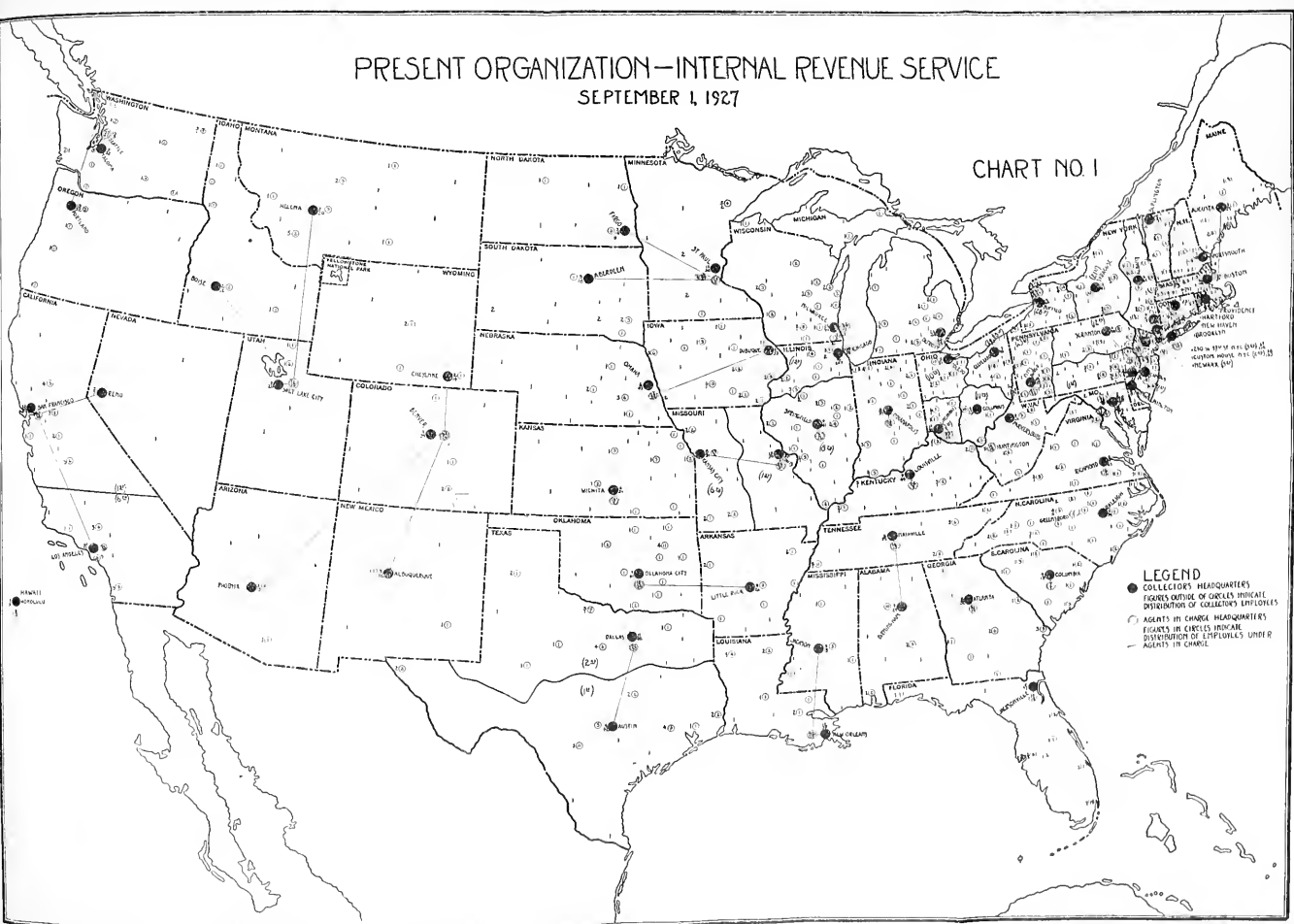




# PRESENT ORGANIZATION—INTERNAL REVENUE SERVICE

SEPTEMBER 1, 1927

CHART NO. 1



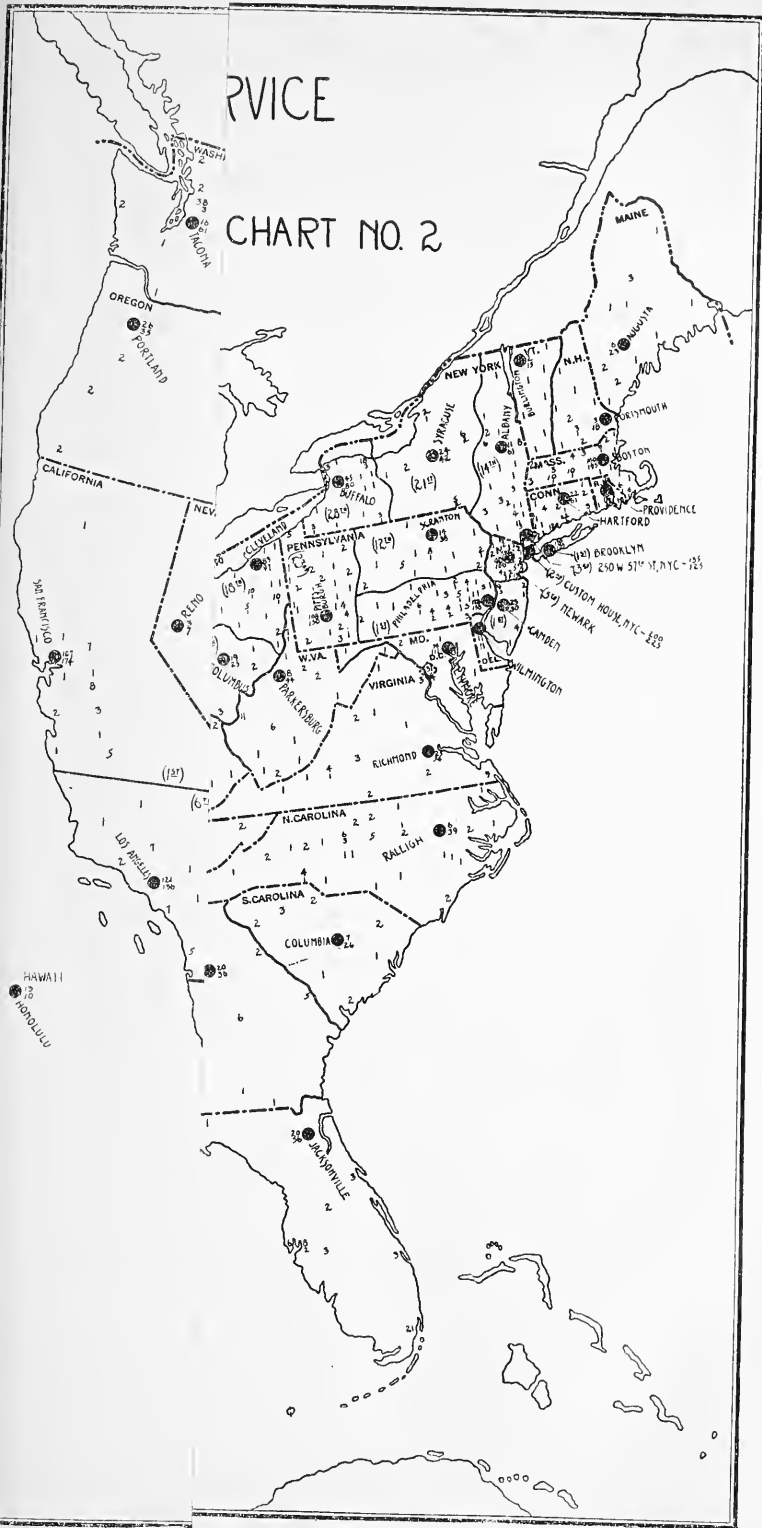
**LEGEND**  
 ● COLLECTOR'S HEADQUARTERS  
 ○ AGENTS IN CHARGE HEADQUARTERS  
 ○ AGENTS IN CHARGE  
 FIGURES IN CIRCLES INDICATE  
 DISTRIBUTION OF EMPLOYEES UNDER  
 AGENTS IN CHARGE





# SERVICE

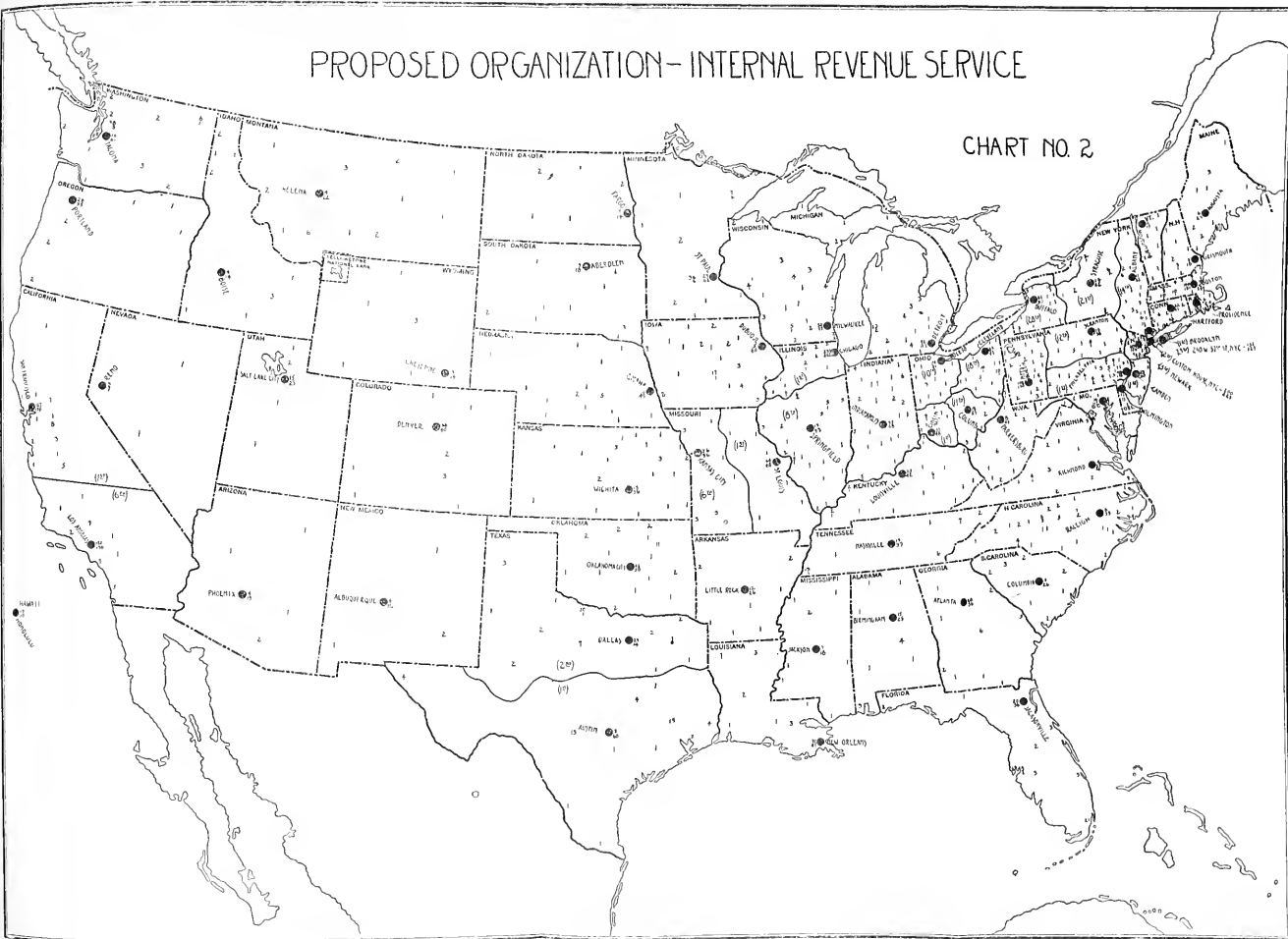
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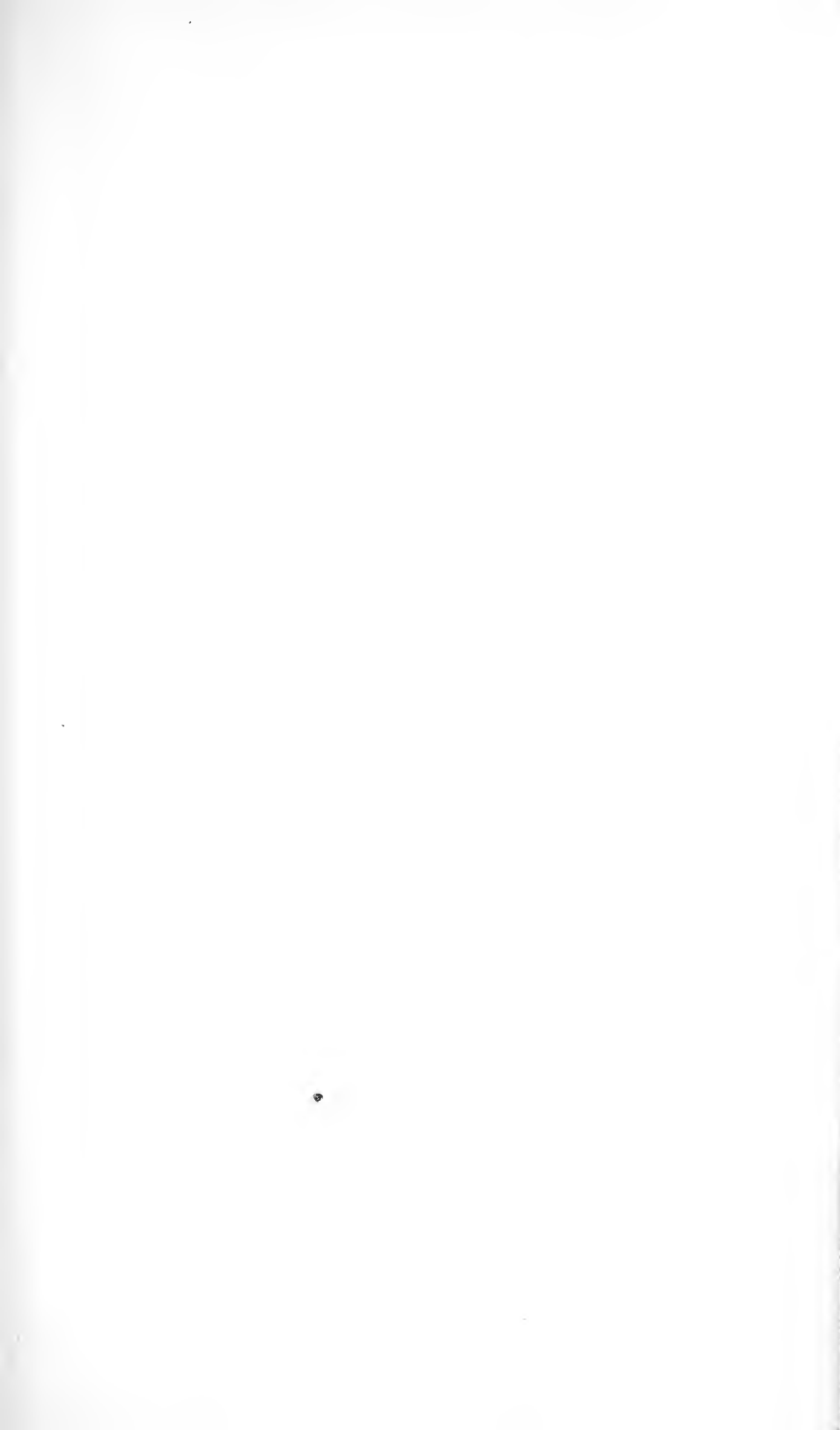


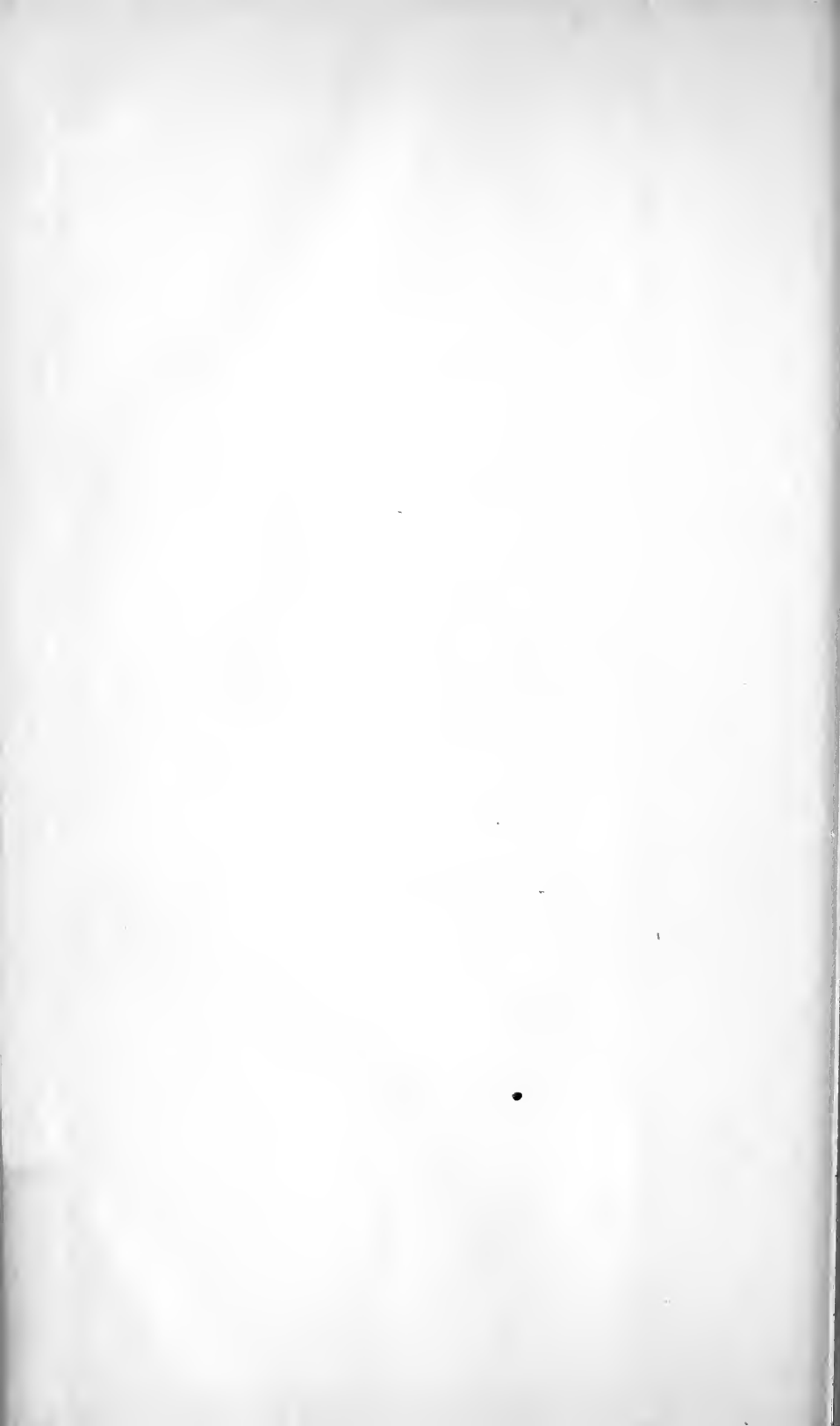
# PROPOSED ORGANIZATION-INTERNAL REVENUE SERVICE

CHART NO. 2









*Office File*

70TH CONGRESS }  
1st Session }

HOUSE OF REPRESENTATIVES

{ DOCUMENT  
No. 139 }

# REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

LETTER

FROM

THE CHAIRMAN OF THE JOINT COMMITTEE  
ON INTERNAL REVENUE TAXATION

TRANSMITTING

REPORT BY THE COMMITTEE, DATED DECEMBER 22, 1927  
(PURSUANT TO THE REVENUE ACT OF 1926)



JANUARY 11, 1928.—Referred to the Committee on Ways and Means  
and ordered to be printed

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON  
1928

**CONGRESS OF THE UNITED STATES**  
**JOINT COMMITTEE ON INTERNAL REVENUE TAXATION**

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**MEMBERS**

**SENATE**

REED SMOOT, Utah.  
JAMES E. WATSON, Indiana.  
DAVID A. REED, Pennsylvania.  
FURNIFOLD McL. SIMMONS, North  
Carolina.  
ANDRIEUS A. JONES, New Mexico.

**HOUSE OF REPRESENTATIVES**

WILLIAM R. GREEN, Iowa,  
*Chairman.*  
WILLIS C. HAWLEY, Oregon,  
*Vice Chairman.*  
ALLEN T. TREADWAY, Massachu-  
setts.  
JOHN N. GARNER, Texas.  
JAMES W. COLLIER, Mississippi.

B. C. BROWN, *Secretary*

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CHARLES D. HAMEL,  
*Counsel and Chief, Division of  
Simplification.*  
E. H. McDERMOTT, *Asst. Counsel.*

L. H. PARKER,  
*Chief, Division of Investigation.*



## LETTER OF SUBMITTAL

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JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, December 22, 1927.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

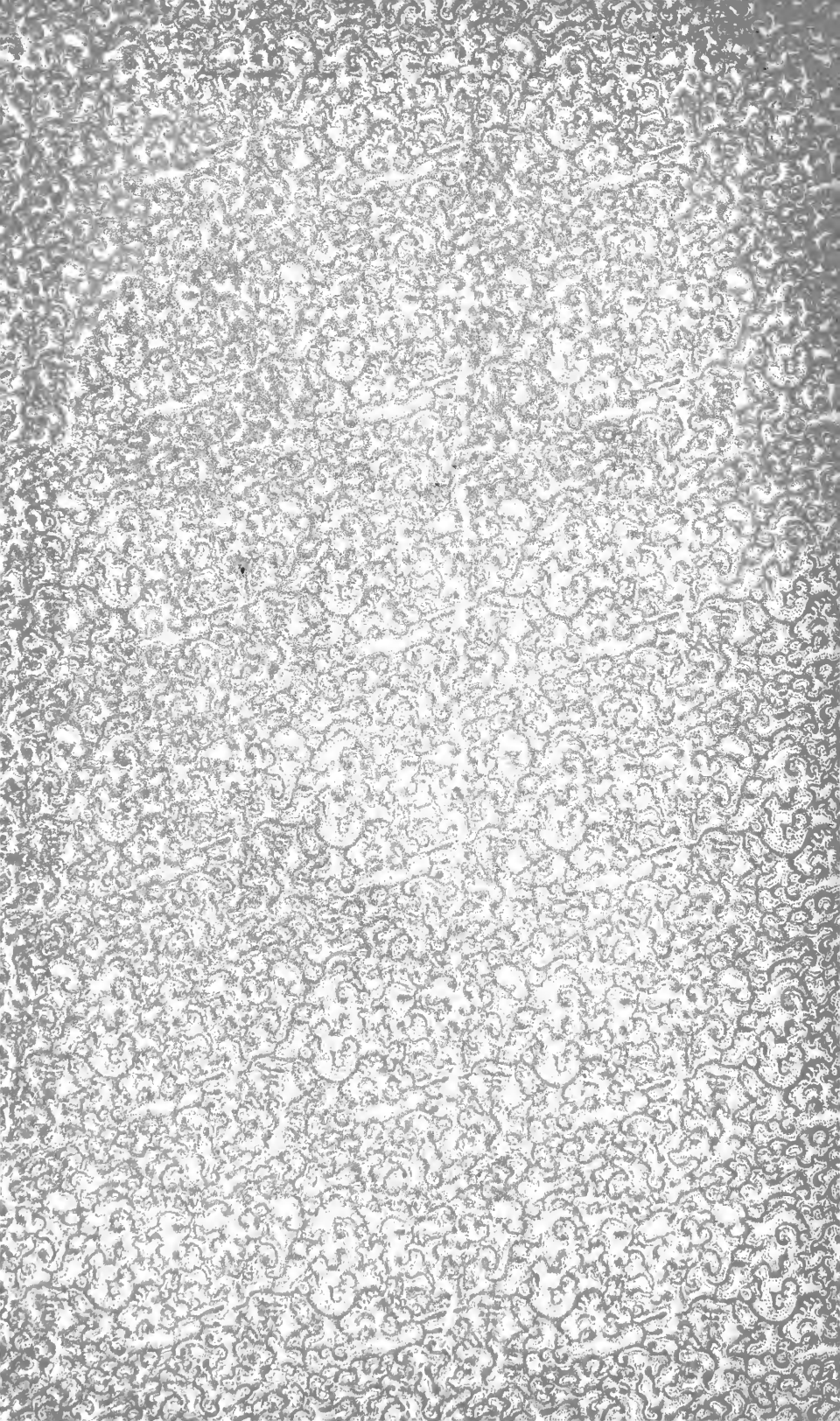
SIR: Pursuant to section 1203 (c) (5) of the revenue act of 1926 I have the honor to submit a report by the Joint Committee on Internal Revenue Taxation, dated December 22, 1927.

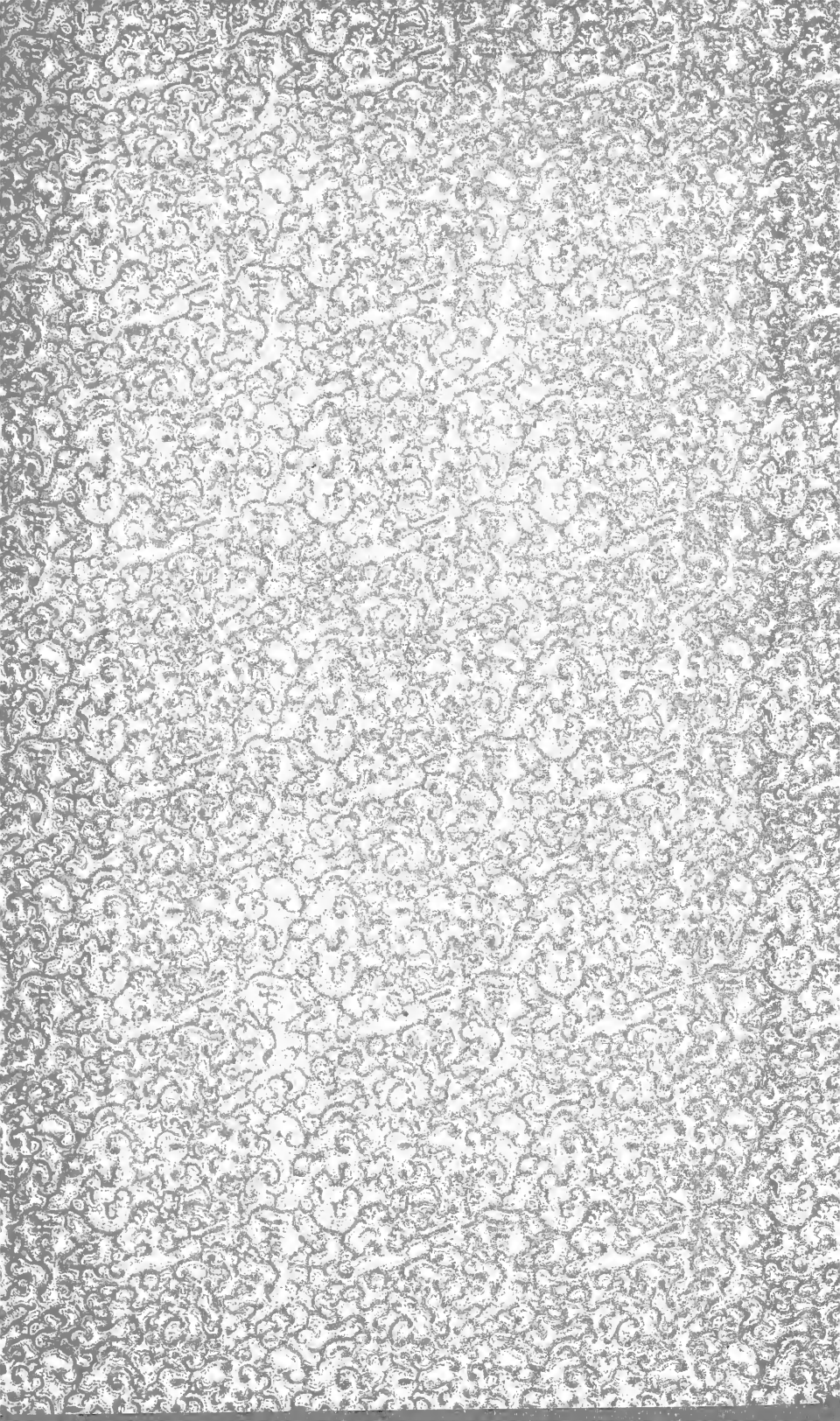
Very respectfully,

W. R. GREEN,  
*Chairman Joint Committee on Internal Revenue Taxation.*









**FILE COPY**  
**ROOM - 1011**